OIL COMPANY MERGERS: IMPACT ON PETROLEUM RETAILERS

HEARING

BEFORE THE

SUBCOMMITTEE ON ENERGY, ENVIRONMENT, AND SAFETY ISSUES AFFECTING SMALL BUSINESS

OF THE

COMMITTEE ON SMALL BUSINESS HOUSE OF REPRESENTATIVES

NINETY-EIGHTH CONGRESS

SECOND SESSION

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OIL COMPANY MERGERS: IMPACT ON PETROLEUM RETAILERS

SATURDAY, APRIL 28, 1984

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ENERGY, ENVIRONMENT,
AND SAFETY ISSUES AFFECTING SMALL BUSINESS,
COMMITTEE ON SMALL BUSINESS,
Jefferson City, MO.

The subcommittee met, pursuant to notice, at 10 a.m., in the Senate lounge, State Capitol Building, Jefferson City, MO, Hon. Ike Skelton (chairman of the subcommittee) presiding.

OPENING STATEMENT OF CHAIRMAN SKELTON

Mr. SKELTON. The subcommittee will come to order. My name is Ike Skelton, and I'm the chairman of the Small Business Subcommittee holding these hearings. This is the Subcommittee on Energy, Environment, and Safety Issues Affecting Small Business of the Committee on Small Business in the U.S. House of Representatives.

We have a lot of business to cover, and I'm going to make my remarks rather brief this morning.

I'd like to thank the Missouri State Senate, and also State Senator Jim Mathewson for making this room available for us for this hearing today.

I might say this is kind of like old times. For 6 years I was a member of the Missouri Senate. We had a number of hearings in this room, and it's rather nostalgic to be here.

First, I want to thank all of you for coming on such short notice. The purpose of this hearing is to accumulate facts, and accumulate evidence, and to get your opinions based on your experience in the marketplace on the effect that the Texaco-Getty merger could have on competition in oil supply in the Midwest, and on your business.

In our hearing in Washington 2 weeks ago the Federal Trade Commission admitted that they had not talked to downstream retailers such as truckstop operators, independents, oil jobbers, and service station owners, before issuing the preliminary consent decree.

Further, the FTC admitted that most of the comments they received so far in the Texaco-Getty merger had been thrown out because these comments simply gave alternative solutions without providing evidence about problems created by the original decree.

The FTC did, however, promise this subcommittee that it would consider the testimony of the witnesses at the hearings we are now holding, and analyze their suggestions and comments before issuing a final permanent consent decree.

This may be the only chance that small business owners have to voice their opinion on the Texaco-Getty merger consent decree before the May 7 deadline. So I hope that you can make the best of it.

Additionally, a number of bills have been introduced in Congress that affect mergers, and will, we hope, be considered in the near future. Some of these bills would apply retroactively, and could, therefore, change or delay the Texaco-Getty merger.

Our report to Congress on the testimony that you present here today will help us establish our case when these bills are debated.

I might mention at this juncture, however, that as a result of our hearings 2 weeks ago, three important things did come to pass.

One is that the Oil Daily—which most of you know is an important publication in the oil industry—wrote an editorial that agrees with the findings of the Washington hearing, specifically that downstream retailers should be considered.

Second is that the consent decree from the FTC in the Socal merger which was announced just last Thursday, did incorporate most of the suggestions that we made at the Washington hearing that were omitted from the Texaco-Getty consent decree.

The third is that I understand that the Texaco people at least appear to be talking to some of the groups here that are testifying today about a better solution. So I think we're on the right track, and hopefully we can continue in this direction.

First, John Hahn, who will lead the oil jobbers, and he will designate who speaks. He and his group will be alloted 45 minutes if they need it.

Will Bradley and Alan Thiemann will organize the truckstop operators. They will be alloted 45 minutes, if they need it.

Lee Lauer will present the retailers and the service station owners for 30 minutes, if they need it.

Anyone else who doesn't fit in those categories may certainly testify. Hopefully we will have time. So, I urge those of you in those three categories to hold your testimony to a minimum.

When I was in the State senate, Mrs. Kutscher will recall—and I've carried this to my hearings in Washington—I'd like to have the issue in 25 words or less. So do your very best to condense your thoughts because we do have a great deal of ground to cover in a very short period of time.

We will first recognize Mr. Hahn, who will lead the oil jobbers, and again I suggest that time is of the essence.

TESTIMONY OF JOHN R. HAHN, EXECUTIVE DIRECTOR, MISSOURI OIL JOBBERS ASSOCIATION

Mr. HAHN. Mr. Chairman, I am John R. Hahn. I am executive director of the Missouri Oil Jobbers Association.

Mr. SKELTON. You'll have to use the microphone there.

Mr. HAHN. I am John R. Hahn. I'm the executive director of the Missouri Oil Jobbers Association. We have more than 400 members

in the State, and today, at the request of the president of the National Oil Jobbers Council, Jack Griffith of Oklahoma City——

Mr. SKELTON. What's his name again?

Mr. HAHN. Jack Griffith of Oklahoma City. He has asked me to hand in a statement which he prepared as an Oklahoma jobber because he was unable to be here because of an injured back.

Mr. SKELTON. Without objection, Mr. Hahn, Mr. Griffith's statement will be made a part of the record.

Mr. HAHN. I appreciate it.

In Missouri, at least, an oil jobber is an independent businessman who owns, or owns control of, an average of about 12 service station outlets, which may be operated either by salary, or through an independent dealer who also, in many cases, owns stations.

Major oil companies own relatively few stations in Missouri, and those are primarily in the metropolitan area.

So we're concerned with, but not necessarily opposed to, all oil company mergers. The fact of a merger, even between giants, does not necessarily put us in an immediate jeopardy. But the way the Government handles the merger, and in this case, the Texaco-Getty merger, does and has placed us in immediate jeopardy.

We have 76 Getty distributors in Missouri, and the more detailed information, which I gave your committee in Washington.

Mr. SKELTON. We appreciated your coming to testify at that hearing.

Mr. HAHN. We showed you how the gallons have declined for the State as a whole from 3 billion gallons in 1980 to 2.7 now. We have just completed the biggest increase in quarterly consumption since 1973. So these things are happening to us—perhaps on the verge of an uptake—on end of a 5-year depression. We hope so.

The FTC's order, as you know, was for the merged Texaco-Getty Co. to divest Getty marketing operations in more than 15 Midwest States. The blanket order was totally unjustified. That order, more than any other thing about the merger, is what makes the business less competitive in direct contrast to the FTC's stated objective.

Even the Oil Daily editorial that you mentioned is overly generous in that it—while it calls for a chance for us or our problems to be heard, it expresses doubt that the overlooking of our problems was deliberate.

Mr. Muris, Timothy Muris of the Federal Trade Commission, testified, in effect, that there were one of two groups of jobbers that were going to be disrupted, and one was in Wyoming, and one was in the Midwest, and it didn't seem to matter very much to him which group was divested.

Some of our people believe that the divestiture order has Texaco's fingerprints all over it; that they didn't necessarily object to divesting this. One of their employee's has told me they would like to keep these operations, but I was unable to persuade him to tell your counsel, Mr. Orban, even off the record.

[Exhibit A follows:]

[From the Oil Daily, Apr. 20, 1984]

ASSESSING MERGER IMPACTS

The question of how best to monitor the impacts of proposed mergers of major oil companies came to a head last week when two subcommittees of the House Small

Business Committee held a joint hearing on the proposed acquisition of Getty Oil Co. by Texaco Inc. The House committee's very name should have offered a clue as to which area Congress felt had been neglected by the Federal Trade Commission and the antitrust division of the Justice Department in considering the majors' merger. It quickly became apparent as the hearing progressed: Marketers and retailers, including truck stop operators, were only then being given an adequate chance to air their concerns over the proposed amalgamation.

The immediate question is whether the omission by the federal agencies charged with reviewing the proposed merger was deliberate. Indications are that it was not, for a number of reasons. Foremost among these is the fact that while the FTC has had much experience reviewing plans to merge companies, it has not faced a question involving two majors of this size before. Previous oil acquisitions of major oil companies, especially in recent years, have been by firms outside the oil indusry. Determining areas where competition might have been restricted was fairly simple, such as the share of the petrochemical venture that Conoco Inc. had to sell when it was acquired by The DuPont Co. because Conoco's partner was a DuPont competitor.

But when one major acquires another, the question of competitive impact is not so easily determined. Initially, a reviewing agency can study where the companies have refineries and try to determine relative market shares and the effect a combined entity would have in given geographical areas. What the House hearing proved, however, is that the impact on marketers and retailers, the small business people of the oil industry, simply can't be determined without taking the time to ask them.

It is the individual marketer or the association executive, for example, who is best acquainted with the policies of the various companies and how they affect the way business is conducted. These are the people who can testify whether the loss of a company will result in a significant change in the supplier-marketer relationship in a given part of the country. Their experience certainly speaks more eloquently than merely comparing refinery size and estimated market share.

Again, it is important to emphasize that neither the companies nor the federal reviewing agencies evaluating their proposed merger intended to overlook this detail. Now that the House hearing has made it so apparent, however, it is imperative that reviews of proposed mergers of major oil companies include, as early as possible, a meaningful attempt to hear from the marketers and retailers how they feel they will be affected.

Mr. HAHN [continuing]. I want to introduce at this point two or three documents published by Texaco.

Mr. SKELTON. Are they marked?

Mr. HAHN. Yes, they are.

Mr. SKELTON. A, B, C, and D? Or how are they marked?

Mr. HAHN. Well, they're not marked. I just have parts of them marked.

Mr. SKELTON. I wish you would mark them.

Mr. HAHN. I will. I'll mark them B, C, and D. And I'll identify them for you as B being a publication called "The Texaco Star," C being Texaco's annual report, and D will be the notice of their annual meeting in Dallas on May 25.

Mr. SKELTON. Without objection, they will be spread upon the record.

[Exhibit B follows:]

ANATOMY OF A MERGER

The news spread fast in the oil patch. Getty Oil Company was for sale. With a speed that dazzled industry analysts, Texaco Chairman and Chief Executive Officer John K. McKinley conceived and set in motion a plan that would lead to the acquisition of Getty. Following Mr. McKinley's direction, vice Chairman James W. Kinnear, President Alfred C. DeCrane, Jr., and Vice President and General Counsel William C. Weitzel, Jr. went to work. After four days of virtually non-stop activity by scores of Texaco men and women from many departments, it was announced that Texaco would commence a tender offer to purchase the publicly held stock of Getty and that Texaco had concluded definitive agreements with the J. Paul Getty

Museum and the Sarah C. Getty Trust to purchase their respective holdings of Getty stock which together constituted the majority of Getty's outstanding shares.

For days the acquisition would be the top business news in the nation's press and on the TV networks. During that time Texaco people in offices around the country worked long nights and weekends to stitch together the thousands of details involved in a transaction of this size.

A major activity during time included working with the consortium of banks which provided the money Texaco needed to complete the acquisition. Texaco attorneys drafted documents, negotiated with government agencies, and litigated lawsuits.

By Friday, February 17, 1984, six weeks after planning began, Texaco had purchased 75 million of the 79.1 million outstanding shares of Getty's common stock, one of the final steps in making Getty a wholly owned subsidiary of Texaco Inc. The total cost of purchasing all of the shares will be some $10.1 billion.

Oil industry analysts regard the price paid by Texaco, $128 per share for common stock of Getty Oil Company, as fair and reasonable by marketplace values, with shareholders of the two companies benefiting from the acquisition.

With the acquisition of Getty, Texaco's net proved reserves of crude oil in the United States were increased by 45 percent. But "bigger" is not the objective, emphasized Chairman McKinley, "better" is.

"Over the past few years," Mr. McKinley explained, "Texaco has embarked on a new course, involving a new sense of direction and vitality. This acquisition is part of the Company's commitment to the future. Texaco stockholders and employes, as well as consumers, will be the beneficiaries of its future success."

Texaco's acquisition of Getty will result in a new and stronger company with greater opportunities for future growth and development. Getty's large crude oil and natural gas reserves and production, along with its refining and marketing interests and other activities, will support Texaco's own strategic plan. They will reinforce Texaco's ability to find and develop energy.

"We are gratified," Mr. McKinley commented, "that Texaco has thus been able to proceed with this friendly acquisition, which had the full support of the Boards of Directors and management of both Getty Oil Company and Texaco Inc., as well as widespread support from the stockholders of the two companies."

Mr. HAHN. But as you pointed out, they didn't dazzle all the oil industry analysts because The Oil Daily objected to that speed. We didn't oppose the merger primarily because it would be like blowing in the wind. It was set against that kind of self-described dazzling speed that there was nothing much which could be done about it. So we have concentrated our efforts on seeking a modification of the decree to allow, or even to compel Texaco-Getty to honor the contracts which these people had. We think the Government should have been trying to make them honor the contracts rather than ordering them to, in effect, cancel them.

As for Texaco's fingerprints on these things, it seems evident that since they had withdrawn from this same area, pretty much the same area 4 years earlier, that they not, well, have withdrawn now.

In connection with that, you might think, "Well, nobody would ever do anything like that." But in the exhibit C of the Texaco annual report, they have about a one-page review of the merger. But take out one relatively obscure fact, or large fact obscurely, and on page 10 of this report, which says that they have recently purchased Standard Oil of California's marketing empire——

Mr. SKELTON. Let me ask you. Are you offering the entire report?

Mr. HAHN. No, just the parts identified at page 10 of it. I will leave the whole document so anybody can look at it.

Mr. SKELTON. All right.

Mr. HAHN. I have the parts marked that I'd like to have included.

But they have purchased 2,800 retail outlets in 6 Western European countries to add to the ones they already have. They now have more than 6,000 stations, and they didn't purchase any crude to go with it.

So the possibility exists that either this Midwest crude, or the product refined from it, that they have acquired through the acquisition of Getty, could be marketed in Europe.

Now, we have a statute that prohibits them from shipping the Alaskan crude to Japan. And there's some effort to repeal that. But Getty also owned 50 percent of Japan's fifth largest oil company, Mitsubishi Oil. So if that prohibition were repealed, we could face the possibility that Texaco wouldn't have a fiduciary duty to the shareholders to ship this product to Europe and Japan where they might get 20 to 30 cents a gallon more markup for it because the competition is not as severe there.

[Exhibit C follows:]

Texaco Europe participated in drilling some 21 exploratory wells in the United Kingdom. West Germany, and Denmark in 1983, which resulted in six discoveries—five oil and one gas—for a success ratio of 29%.

Europe is a significant market for petroleum products, representing about 35% of the industrialized free world's total demand. Texaco moved to enhance its competitive position in the European marketplace with the pending acquisition of selected marketing interests of Chevron in six countries: the United Kingdom, West Germany, the Netherlands, Belgium, Luxembourg, and Denmark. This purchase is scheduled for completion in early 1984.

Motor gasoline share in the six involved countries is expected to increase to 12%, while total products market share is expected to rise to an estimated 8.5%. Texaco will acquire some 2,800 additional retail outlets, bringing the Company's total in the six countries to over 6,000.

Mr. SKELTON. Now, you're talking about domestic oil?

Mr. HAHN. Sure. It's a possibility, and anyway, obviously the FTC has not done anything to protect against that in this consent agreement which they could clearly do.

Mr. Muris testified that the objections that we had filed were not considered because we just said they were bad. And we didn't have any solutions for them. Some of the other groups offered various alternative solutions, and they just missed those because that's all they did. They just gave alternative solutions.

They testified that all of this disruption in these 15 States was brought about by the fact that Texaco and Getty had ownership in 2 pipelines that went from Wyoming to Denver. Instead of doing such simple things as making one of the pipelines a common carrier, or divesting the pipeline, they said, "Well, in order to get somebody to buy the pipeline from them we had to give them the El Dorado-Kansas refinery." In order to give them the refinery, we had to give them the Midwest marketing apparatus to make the refining profitable. But they haven't guaranteed that that refinery would have any crude oil to operate, which they did do in the case of a west coast refinery.

We have been discriminated against from the very beginning; relegated to the back row; not allowed to give our business problems to the FTC. FTC admits that. The reason they didn't have hearings, they said, is they were statutorily prohibited from revealing anything except in dealing with these two companies.

But Congressman Bedell that day said, "We're not asking you to reveal anything. We're asking you to listen to these jobbers."

So the worst damage that comes to us is not because Texaco acquired Getty. The worst damage comes because of the Federal Trade Commission.

Now, we can pick up the phone these days and call a broker and buy some product, but that situation will change, particularly if the increased consumption continues as it has so far this year. A product can become very difficult to find, if you can remember just a few short years ago.

But this jobber would be at the end of the line. There's very few major oil companies left operating in Missouri, statewide. Mobil withdrew from 15 northwest Missouri counties, and Gulf has long since been gone except on an unbranded basis; 5, 6 at the most. American Oil is probably the only one that's really everywhere.

Mr. SKELTON. Let me interrupt you right there. Now, by law, as you know, the FTC has as its purpose to preserve competition. You say the competition will be reduced. Is that correct?

Mr. HAHN. No question about it.

Mr. SKELTON. For the record, Mr. Hahn, how exactly do you see competition being affected or reduced?

Mr. HAHN. OK. In the beginning in this area we had Texaco and Getty, and everybody else competing for the business. So Texaco unilaterally decides to withdraw. That leaves Getty, and everybody else.

So then FTC says, "We will approve this huge merger."

Mr. SKELTON. Between Getty and Texaco.

Mr. HAHN. Between Getty and Texaco, a $10 billion merger, which was approved in a matter of a few days. The FTC could not even have read the documents, let alone have any comprehension of what was happening upstream, downstream, or anywhere else. They would say "You've got to get rid of the Getty outlets, the Getty marketing outlets. You've got to get rid of the refinery in El Dorado. You've got to get rid of the pipeline, and you've got to get rid of these 76 guys that are being treated out here like checkers on a checkerboard, just move them around at somebody's convenience." And the business isn't Getty's to give away in the first place, or Texaco's.

Most of these outlets are owned by jobbers. So then you would have competition to get supply, and not just supply. You would have advertising, promotion, credit cards, name recognition. Sometimes a single sign, a Getty sign, a Texaco sign, whatever. It can cost anywhere from $1,000 to $2,500. Maybe the company will help with that, and maybe it won't.

But you lose the competition, which may help us increase our margins, but at the same time it would be a blow to the consumer in all these areas. Then you think about why the margin is so low out here that these fellows are—some of my jobbers will tell you about that, I think. About the financial hardships that they're undergoing. They're at the low end of the totem pole as far as profits are concerned.

Exxon is up 59 percent. All the major oil companies are reporting these days huge gains in their profitability. Not so with the jobbers.

That's how we would lose competition. We would lose it. It would be through lack of supply, reduction of competition. Exactly the opposite of the charge that FTC has to carry out in the first place.

I want to just point out briefly that the exhibit D I mentioned and just the first page is adequate because the things they're going to discuss in Dallas on May 25 do not include the $10 billion merger.

[Exhibit D follows:]

NOTICE OF ANNUAL MEETING

You are cordially invited to the Annual Meeting of the Stockholders of Texaco Inc. which will be held in the Regency Ballroom of The Fairmont Dallas Hotel, Akard at Ross Streets, Dallas, Texas, on Friday, May 25, 1984, at 10:00 o'clock A.M. for the purpose of (1) electing a Board of 13 Directors, (2) approving the appointment of auditors for the year 1984, (3) approving adoption of certain amendments to the Certificate of Incorporation concerning classification of the Board of Directors and related matters, (4) approving adoption of a fair price amendment to the Certificate of Incorporation, and (5) transacting such other business, including taking action upon a stockholder proposal, as may properly come before the meeting.

The Board of Directors has fixed March 30, 1984, as the record date for the determination of the stockholders entitled to notice of, and to vote at, this meeting. The list of stockholders entitled to vote will be available for the examination of any stockholder at The Fairmont Dallas Hotel, for ten days prior to May 25, 1984.

It would be appreciated if you would kindly sign the enclosed proxy and return it promptly so that your shares may be represented. Only those stockholders or their properly identified proxies with valid admission cards will be admitted to the meeting. Accordingly, if you plan to attend the meeting, please mark the box provided on your proxy so that we may send you an admission card. A return envelope which requires no postage is enclosed for your convenience.

A report of the meeting will be mailed to all stockholders.

Mr. SKELTON. Let me ask you this. What effect does this have on the consumer? The bottom line is the person who purchases the products from your people, service station people. So the question is, So what? What is the bottom line? How is Mr. and Mrs. American going to be affected?

Mr. HAHN. Well, you and your wife are going to pay more for the product, and the distributor is going to get—and the dealer—they're going to realize less out of it. And there's going to be less competition for their business.

We've lost 40 percent of our service stations in Missouri since January 1980. And if you're in England it's very difficult to know where one is to go find a service station. It could get that way here.

Mr. SKELTON. So you say, in essence, because of the lack of competition the prices will rise, and each of us will end up paying more money?

Mr. HAHN. They always have. That's been the law of supply and demand forever. The tragedy of it is that the FTC was never equipped to deal with mergers of this size in the first place. There have been more large mergers in the last 2 years, mega mergers, than in all the previous——

Mr. SKELTON. Now, as a result of our hearings, this Socal decree did include the items that we discussed in our hearing in Washington, and you're aware of that?

Mr. HAHN. Yes.

Mr. SKELTON. Are you satisfied with that, or what's your opinion on the Socal decree?

Mr. HAHN. Well, they're having the hearings sort of—they're closing the barn door, you know, after the horse has gone. They don't have these hearings, and they said by law they don't have them before the preliminary agreement, then that way Texaco acquires the majority control of Getty within 4 days.

This whole Texaco Star thing that I'm going to introduce into the record is a diary of the dramatic things they did to—in their own words, dazzle the industry. The ones that were dazzled were really the Federal Trade Commission.

Mr. Muris said that the only people they talked to were Texaco and Getty—and it reminded me that it was like Ralph Waldo Emerson's injunction that he wrote, "that is the wisdom of a man in every instance of his labor, to hitch his wagon to a star and see his chore done by the gods themselves."

I think in Mr. Muris' case he hitched his wagon to the Texaco star. I think they sought to draft the agreement to the exclusion of the interest of consumers, jobbers, dealers, truckstop operators, anybody dependent upon these companies for supplies.

Mr. SKELTON. All right. You have, thus far, for your information, used 20 of your minutes. I just want to let you know how your time is going here.

Mr. HAHN. OK. I will stop my testimony here because I have this in written form to give your staff. I'd like to have you hear some of the people whose pocketbooks are involved.

Mr. SKELTON. Yes.

Mr. HAHN. The first one is Gary Brown, whose father had an old saying that we think applies very appropriately. He said, "When you step on my pocketbook my mouth flies open."

So that's what they've done to us, and with that it's Gary's turn.

[Mr. Hahn's prepared statement follows:]

PREPARED STATEMENT OF JOHN R. HAHN, EXECUTIVE DIRECTOR, MISSOURI OIL JOBBERS ASSOCIATION

Mr. Chairman, I am John R. Hahn, executive director of the Missouri Oil Jobbers Association. There are some 600 oil jobbers in our state with about 400 of them current members of our Association. An oil jobber is an independent businessman who owns, or owns control of, an average of 12 service station outlets which may be operated either by salary or through an independent dealer, who also owns stations in some cases.

Major oil companies own relatively few stations in Missouri, primarily in large metropolitan areas. We are concerned with, but not necessarily opposed to, all oil company mergers. The mere fact of a merger, even between giants, is not necessarily an immediate threat to our existence.

However, I wish to speak of a particular merger, Texaco-Getty, and its effect in Missouri, and more particularly, to the much more damaging effect of the Federal Trade Commission Order will have on our jobbers if we cannot find some way to modification of the Order.

In the more detailed information which I gave your committee I included the names and addresses of the 76 jobbers in Missouri who have contracts with Getty. Many of these are smaller companies who are in the midst of their most difficult financial times in more than 20 years. Many are disappearing. More than 40 percent of all our stations in Missouri have been closed since January 1980. Our taxable sales peaked at 3 billion gallons in 1978. Last year it was down to 2.75 billion gallons.

FTC's Order, as you know, was for the merged Texaco-Getty company to divest Getty marketing apparatus in 15 Midwest states. This blanket order is totally unjustified. The Order, more than any other thing about the merger, makes the business less competitive.

Texaco has long since withdrawn from large areas, including most of Missouri and Kansas. They do not compete with the Getty outlets in most states. Five years ago we had Texaco, Getty and all the rest. Then Texaco withdrew and many Texaco jobbers turned to Getty. Then Texaco acquired Getty and the government rushes in to say, yes, we will permit this merger but you have to get rid of the Getty outlets. So if this actually happens we lost both companies as suppliers.

It is likely that Texaco would withdraw Getty gradually from the area over a period of time because they have previously withdrawn themselves. The government should require Texaco to honor the Getty contracts—not give them an excuse to cancel them.

Still, we have not opposed the merger. In the first place, there was no point blowing in the wind. The merger is set in concrete. There will be no moratorium and that is not our point.

FTC needs to change the order by modifying the requirement of divestiture.

As it now stands, it is like the Rabbit saying to the Fox, "Whatever you do, please don't throw me in that briar patch." Texaco does not seem at all unhappy with the FTC order. Many Getty people are definitely unhappy about it.

If your committees did nothing else, you could call upon FTC to modify the order for the Getty outlets to be sold in those places where Texaco either had previously withdrawn or did not compete. FTC told your Committee that the reason for the order was because of the pipeline situation from Wyoming to Denver and that in order to force them to divest the pipeline, they would have to have the refinery and in order to have the refinery (at Eldorado, Ks.) they would have to have the marketing. "For the want of a nail, the shoe was lost. * * *" Controlling interest in the pipelines can be sold to their partners or made common carriers and end the entire cruel hoax on marketers and their customers overnight.

The worst damage comes to us not from Texaco-Getty, although that presents a serious challenge in getting another comparable supplier. It comes from the FTC order.

Sure, we can pick up the phone and call a broker and buy some product today. But the glut is not a permanent condition. That situation will change. As our consumption moves up, and it is doing so, and our known supplies decline domestically, prices will move up. Product may become difficult to find.

However, the jobber would have a longer period of time to negotiate a new contract. He deserves to have the stronger supplier because he has stations which he has built with loans, sometimes from Getty, sometimes from others. Some Congressmen have said to us, well, the person or company who buys these outlets will be able to give the same service.

He will not. In truck stops, for example, the Getty name is recognized everywhere as one of the better suppliers. In Missouri one big competitor on the interstates is Union 76. They operate only truck stops in Missouri. They will not take on a single Getty operator because they already have a Truck Stop within a short distance of the Getty truck stop. They may hire extra help to handle the Getty business sent to them by FTC.

Let me quote from just one letter of a Getty jobber. He wrote February 29, and said:

"Dear John: Once again I come to you for help . . . Texaco-Getty.

The help I need would be . . . One, to try to influence in the direction that Texaco should do its moral duty, first, by making every contract good, and if they want out, to help find a supplier to take their place . . . Second, to try to hold marketing structure together for Getty's truck stops (Excellent Program), Third . . . or to suggest possible suppliers.

John, I had finally got a good supplier, and I can not say the many good things that I was experiencing with Getty . . . I really hated to see it happen.

Asking for the moon. W. Morgan"

Billy Morgan and my Missouri jobbers are not asking for the moon. They are asking for mercy. The merger is not viewed with elation—but the FTC order that tells Texaco they do not have to do what Billy calls their moral duty is something else.

That leads to my final suggestion.

FTC's action on the divestiture casts grave doubts upon the wisdom of all their actions. Therefore, we would like to see you explore the possibility of having one of possibly two rotating seats on the Federal Trade Commission.

When a major oil company merger is involved, then that seat should be filled by someone with expertise in the oil industry who is not involved in the merger. Somehow, we must bring intelligence to the Federal Trade Commission's actions. If it is a

steel industry merger, then someone from the steel industry, or with expertise in that industry, should sit on the Commission.

These mergers are gigantic, and when they are accomplished, it should be done with expertise and intelligence.

If we cannot get more satisfactory solutions from the Federal Trade Commission—satisfactory to the public—and certainly in recent times they have not been satisfactory—then sooner or later the Congress will reconstruct the FTC. This could be a dangerous thing to do because any change would be a more restrictive one.

Obviously, FTC has not been the least responsive to the Congressional requests that they give us a hearing and listen to the complaints of the downstream companies. They repeatedly told Congressman Bedell in Washington that jobbers and others just criticized their actions but they were not taken into consideration because we didn't tell than what would be better. We did offer them alternative solutions. We did tell them what was wrong.

Incredibly, the entire merger of Texaco-Getty was accomplished to the preliminary stage with no hearings at all.

A Texaco spokesman has told me that Texaco would like to keep the marketing end of this Midwest deal but said they could not say anything until May 2. I asked him to come here and meet with Mr. Orban and tell Mr. Orban that but he apparently couldn't work it out, and of course he knows I will protect his confidence. However, the fact there is no one here to assure the committee that they would like to keep it speaks for itself.

You have been generous, and hopefully wise, in asking jobbers to share our hearts and minds with you. We thank you for doing so because it means that at least you will be able to proceed with greater knowledge of your constituency.

Mr. SKELTON. Thank you. Mr. Brown, state your full name, address, and residence.

Mr. BROWN. I am Gary C. Brown, Caldwell Oil Co., in Richland, MO.

TESTIMONY OF GARY C. BROWN, OWNER, D.S. CALDWELL OIL CO., INC.

Mr. BROWN. It's our pleasure, Mr. Chairman, to appear this morning. I think what John just stated is correct.

I would like to represent and present my testimony trying to make the understanding of the small businessman down the stream known a little better.

Our jobbership has been a Getty or a Skelly jobbership since 1941. Our primary business is in a rural area. We have farm accounts; several service stations which are operated by the small businessman. We also have a truckstop in a rural area down on Lake of the Ozarks. I'd like to also point out that most of our customers we have had for several years, and I am the third generation in this company.

First of all, I'm afraid that this merger will hurt our company, or the other small companies who are in hard times right now trying to survive. And I think the past 2 years has really been a testing ground for survival without having to worry about a merger, and the other things that these will create additional problems for us.

First of all, the elimination of another strong Midwest company, Getty or Skelly, in our area, I think will hurt competition by causing high prices. I think the way this will happen is as Texaco spins off the refinery, the pipeline, they could move the crude elsewhere. Whoever buys the Skelly or the Getty marketing area may not be able to supply us with the type of products that we have been supplied.

I know back during the shortage in our small town, in our area, it was a vital necessity taking care of some of the agriculture busi-

ness, and the school. I think we'll miss this, that part worries me very much. Also, I think trying to get a new supplier, especially a major oil company supplier, in my situation will be real tough.

First of all, Richland is a small area. Our gallonage is not large. I think they're looking for the large jobber anymore. If we're lucky enough to get a major supplier then the hardship, I think the financial burden, will be hard on certain individuals when we try to put up new signs, painting, advertising. We will have to meet new credit standards in doing business with the new company.

Another thing in our area that I feel that will be a vital interest also is like I named earlier that we do have customers that we've had for many years that are agriculture customers, and they're concerned about this, and what will this do in our particular area. Probably in a 25 or 30 mile trade area we're the only one who still delivers to the farm.

Mr. SKELTON. That's important. As you know, the farmers are having problems these days. That's an understatement concerning many of them. In your opinion, could this type of merger cause further problems for the farmers?

Mr. BROWN. In my case, in my town, if I could not get supply, if I relied strictly on brokers, or somebody besides the major oil company, I think it could be a problem.

Right at the present you can buy fuel probably from a broker, but that can change overnight, and it did. I have seen problems. I will say being with Getty these many years we got supply. They were very gracious to us, and we survived in our little area very well. Yes, I think it would be a problem.

Another point also is I hope that if—and when this merger, does go through, that you will consider what has been stated here. There's other jobbers who want to try to state their position, so I'm going to keep mine brief. I do have a printed testimony here.

Mr. SKELTON. Without objections your entire statement will be admitted into the record.

Mr. BROWN. Thank you very much.

[Mr. Brown's prepared statement follows:]

PREPARED STATEMENT OF GARY C. BROWN, OWNER, D.S. CALDWELL OIL CO., INC.

I am Gary C. Brown of the D. S. Caldwell Oil Co. Inc. of Richland, Missouri. We have been a Getty (Skelly) jobber in a rural area since 1941. We deliver mostly to small independent businessmen operating service stations, farmers, and to a truck-stop located in the Lake of the Ozark area. I am the third generation in the family business.

The Texaco/Getty merger will hurt our company and many more small companies who are in the most difficult times of survival that we have endured in more than twenty years.

First of all, it eliminates a very strong midwest major oil company, in having Texaco spin off the Getty marketing area, refinery and pipeline. Texaco pulled out of our area a few years ago and Getty leaving will eliminate more competition. By selling the Eldorado refinery, it will possibly raise prices in our area, along with shorter supply if Texaco moves the crude to other markets.

As a small business, trying to obtain a new supplier, especially another major brand, it could be very hard to obtain in a rural town such as Richland, Missouri. It will be a financial hardship on many of us in making the change over if we are lucky enough to obtain a supplier. Signs, painting, advertising, meeting credit restrictions and many other added expenses at this particular time will be a financial burden.

There are so many small businesses depending on us for supply in the rural area that it could affect agriculture, small industry, and little independent businessmen

that have been dependent on us for many years. Some are third generation people who have been doing business with our company for many years. This is a great worry to me in a small area such as Richland, Mo.

I hope that this merger doesn't go through without hearing the little man down stream and taking them into consideration. It will be profitable to Texaco in obtaining crude; it will help shareholders in both companies; however I am afraid it is at the expense of small companies.

It is my pleasure to have had a chance to express my opinion. I hope that the final discussion will be wise and generous to all concerned. Thank you for letting me share my feelings.

Mr. HAHN. Bill Morgan would like to speak next.

Mr. SKELTON. Thank you, Mr. Brown. Mr. Morgan?

TESTIMONY OF BILL MORGAN, MORGAN OIL CO.

Mr. MORGAN. I am Bill Morgan, of Morgan Oil Co., Alexandria, MO.

I feel that there should be a modification in the merger. The biggest problem area is the El Dorado refinery. If that should cease to operate I believe our area of the Midwest would be crippled for products. Everyone would suffer, and obviously the prices would go sky high.

To me, it would be the onset of a terminal cancer for my business. The process would first be very erratic supplies. The next thing would be increased prices that I would be paying above my competition, and you know the answer there.

Please keep in mind that about every major producer is gone from the Midwest, and suppliers that remain have already a customer load sufficient to run their refineries. It would be next to impossible to get a good supply.

Since the proposed merger I have not had a single supplier contact me.

Mr. SKELTON. None?

Mr. MORGAN. It would be tough. I mean, it really would.

Mr. SKELTON. Thank you so much.

[Mr. Morgan's prepared statement follows:]

PREPARED STATEMENT OF BILL MORGAN, MORGAN OIL CO.

I feel there should be a modification in the merger. The biggest problem area is the El Dorado refinery. If that should cease to operate I believe our area of the middle west would be crippled for products. Everyone would suffer. Obviously the prices would go sky high.

To me, it would be the on-set of terminal cancer for my business. The process would first be very erratic supplies, the next thing would be increased prices that I would pay above my competition, and you know the answer there.

Please keep in mind that about every major producer is gone from the middle west and suppliers that remain have already a customer load sufficient to run their refineries. . . . it would be next to impossible to get a good supply.

Since the proposed merger, I have not had a single supplier contact me.

Mr. SKELTON. Don Short.

Thank you, Mr. Morgan.

[Pause.]

Mr. SKELTON. State your name; your address, please.

Mr. SHORT. My name is Donald Short, Don's Oil Co., Liberal, MO.

TESTIMONY OF DON SHORT, DON'S OIL CO.

Mr. SHORT. Mr. Chairman, I service 580 farm accounts. They've relied on me, and Getty Oil, for 49 years.

Mr. SKELTON. For how long, sir?

Mr. SHORT. They've relied on Getty Oil for 49 years. I've been there 8 years.

If the refinery is to be sold, it should be supplied with crude for adequate time for the purchaser to become established and able to supply the market.

Mr. SKELTON. I suppose the buzzers we just heard, it's been so long since I've heard things called here in the State senate, I suppose that's a quorum call. Just ignore it as best you can. I realize that causes a little confusion, but just proceed. I'll just listen a little more intently to you.

Mr. SHORT. Withdrawing Getty from this area will leave Amoco, the only branded major serving here. Withdrawing Getty will leave my business to the mercy of cut rates, independents, and the open market, leaving me without assurance of good quality and sufficient supply at a competitive price to satisfy all my customers.

Mr. SKELTON. May I ask you a question at that point, Mr. Short?

How do you service your farmers? Do you deliver to them?

Mr. SHORT. Yes, I do.

Mr. SKELTON. If you recall, how many do you deliver to?

Mr. SHORT. 580.

Mr. SKELTON. To all of them?

How many trucks do you operate?

Mr. SHORT. I have two.

Mr. SKELTON. How many employees do you have?

Mr. SHORT. I have four heads of households.

Mr. SKELTON. If you were to go out of business who would serve the farmers in that area?

Mr. SHORT. The only major brand would be Amoco.

Mr. SKELTON. Which means no competition?

Mr. SHORT. Which means no competition.

Mr. SKELTON. Which means the prices would go up?

Mr. SHORT. You're going to put 76 jobbers out on the market competing against each other to grab what product is available to survive as long as we can.

I have not received any calls from any oil companies, not even a broker.

Mr. SKELTON. I think that's an important part of this. It should be stressed in the record that you received no inquiries whatsoever. Is that right?

Mr. SHORT. That is correct.

Mr. SKELTON. Mr. Short, I appreciate you being with us and driving all the way over from Liberal. It's nice to see you.

Mr. SHORT. Thank you.

[Mr. Short's prepared statement follows:]

PREPARED STATEMENT OF DON SHORT, DON'S OIL CO.

Selling 700,000 to 1,000,000 gallons of gasoline and diesel and about 15,000 gallons of Skelly-Getty motor oils and greases a year at a competitive price. Employing four heads of households.

Business built on trust, service, reliable branded name, continual supply of a good quality product—even through the fuel shortage with the help of our State set-aside program and people at Getty.

Texaco, DX, Mobil, Conoco, Phillips, and all other major oil companies have previously withdrawn from this area. Amoco and Getty are the only two branded majors in this area. Some other majors may sell in this area but they are unbranded.

Withdrawing Getty from this area will leave Amoco the only branded major serving here. Withdrawing Getty will leave my business to the mercy of cut rates, independents, and the open market, leaving me without assurance of good quality and sufficient quantity products and no source for good quality oil and sufficient supply at competitive prices to satisfy all my customers—some of whom have been Skelly-Getty customers for 49 years.

If the refinery is to be sold, it should be supplied with crude for an adequate time for the purchaser to become established and able to supply the market.

I think it would be logical for Texaco to market in the States where it has previously withdrawn. This would not create any unfair competition, and would not alter the competitiveness of the marketing area

No company has contacted us or offered to supply us in order that our business could survive in the event that Texaco withdraws from our area.

Mr. SKELTON. All right. Call your next witness, please.

Mr. BRADLEY. Tom Underwood.

Mr. SKELTON. Mr. Hahn, you have used 31 minutes. You're doing well.

TESTIMONY OF TOM UNDERWOOD, UNDERWOOD OIL CO.

Mr. UNDERWOOD. Good morning, Mr. Chairman. My name is Tom Underwood, and I am from Springfield, MO. The only thing I would like to add is that in the last 7 years Springfield has lost three major, and one semimajor oil companies: Gulf, Texaco, Champlain just moved out, and now Getty. I have not been contacted by any other company. We sell around 700,000 gallons of product each month, so it's not because of our size. There are only two major companies left in town in our area.

That's about all.

[Mr. Underwood's prepared statement follows:]

PREPARED STATEMENT OF TOM UNDERWOOD, UNDERWOOD OIL CO.

My name is Tom Underwood. I am a Getty jobber from Springfield, Mo. My father started our company in 1900 as a Skelly jobber. We feel we have had an excellent relationship with the Getty organization.

In the last 7 years our area has lost three major and semi-major oil companies. These are: Gulf, Texaco, Champlain and now Getty. We feel that for ourselves and our customers we would be best served by allowing Texaco to keep the refining and marketing assets in the midwest. My main concern is that if Texaco is forced to sell these assets, we as jobbers are held in limbo until someone buys the properties.

Thank you for this opportunity to air my views.

Mr. SKELTON. What are the two that are left?

Mr. UNDERWOOD. Conoco and Amoco.

My opinion is that it's going to reduce the number of service stations, and, in turn, reduce the competition in our area.

Mr. SKELTON. How is this going to affect the consumer?

Mr. UNDERWOOD. The price is going to go up. Like everybody else has stated, the less competition you have the more likely you pay a higher price.

Mr. SKELTON. Do you serve any rural areas?

Mr. UNDERWOOD. Not particularly.

Mr. SKELTON. Farmers?

Mr. UNDERWOOD. No; not in our area.

Mr. SKELTON. Counsel has a question.

Mr. ORBAN. Do you know off hand if Conoco or Amoco received through exchanges or otherwise, some of their supply through the same El Dorado refinery that is currently owned by Getty.

Mr. UNDERWOOD. Well, Conoco has their own terminal, Continental Pipeline.

Amoco has a product at one refinery—I mean, one terminal. There are two terminals in our area.

Getty had products at both terminals. So that takes one terminal away right there. If they go out then you got Conoco at one, and Amoco at one. You don't have the credit card system that you had.

In other words, if someone wanted to get a credit card to buy gasoline in our area they've thrown three credit cards out of their billfold, and they've got two left, two places to buy products.

Mr. SKELTON. OK. Thank you, sir.

Mr. HAHN. If I understand your question, what you really want to know there is whether some of these other companies, Conoco, Amoco, are getting some of the Getty product now. I think some of our witnesses will probably be able to satisfy us on that.

Mr. Schweigert will be our next witness.

Mr. SKELTON. Just a moment, please. [Pause.]

Yes, sir, your name, please?

Mr. SCHWEIGERT. My name is Mark Schweigert of Schweigert Brothers, Inc., in Ste. Genevieve, MO. I got a little deal prepared here.

Mr. SKELTON. Please proceed.

TESTIMONY OF MARK SCHWEIGERT, SCHWEIGERT BROS., INC.

Mr. SCHWEIGERT. Mr. Skelton, I would like to present today the views of my family on the oil company mergers, especially the Getty-Texaco merger, now pending final approval from the Federal Trade Commission.

We're a small family-owned business operating a retail truckstop on I-55 in Ste. Genevieve County, MO. We presently employ 27 people with an annual payroll of about $300,000. We're also a collecting agent for the State of Missouri, various tax bureaus, which amount to nearly $250,000 annually.

We have been operating this business for 11 years, and we feel that we provide a very important cog in the wheel of employment and service industry, especially in our local area.

For 10 of the 11 years that we have been in the truckstop business we have constantly struggled to survive with Standard Oil Co. Through their direct and their jobber supply arrangement, their credit card programs, and their so-called fuel shortages, this left us in a noncompetitive market advantage; therefore, crippling us almost to the point of extinction.

With investing our lives, and our total finances in our family's business we had to make a change. One year ago we made that change. We were able to secure a direct jobber arrangement with the Getty Oil Refining and Marketing Co. This finally put us back into a competitive marketing situation in the truck stop industry. With Getty's nationally known and renowned truck stop program we increased our volumes by nearly 100 percent, and were capable of creating a number of new positions from this changeover, the

success of this being that our previous supplier, Standard Oil Co., was not as interested in servicing truck stop industry as Getty Oil Co. is.

Our concern is that should this merger be allowed to take place, and Texaco being ordered by the Federal Trade Commission to divest itself of certain Getty holdings to small independent companies, especially in our Midwest region, we, once again, will be forced into a noncompetitive marketing situation.

Presently the major oil companies have been able to market their products directly through their company operated locations at a more reasonable price than the jobber or retail dealer can. Therefore, I see more and more of our small family owned businesses being closed up.

In summary, Mr. Chairman, I ask that your committee and the Federal Trade Commission realize the importance such a merger would have financially. It could also cause the loss of a small business, employment, taxes, and especially the competitiveness of the oil retailing in our State. However, if you allow this merger, I request that you do not force Texaco to divest itself of its Midwest Getty marketing holdings and obligations.

Thank you.

Mr. SKELTON. Of course, you understand it's the FTC that allows its——

Mr. SCHWEIGERT. Right.

Mr. SKELTON. We're the lawmakers, and that's, why we're holding these hearings.

How many employees do you have?

Mr. SCHWEIGERT. We have 27.

Mr. SKELTON. Twenty-seven.

Mr. SCHWEIGERT. Yes, sir.

Mr. SKELTON. As a result of your changeover about a year ago did your employment go up?

Mr. SCHWEIGERT. Yes, it did.

Mr. SKELTON. From what to what?

Mr. SCHWEIGERT. I think we had about 20 employees then. We have 27 now. We bought ourselves a tanker, and, well, with our volume of fuel we were able to employ a few more people.

Mr. SKELTON. Do you agree with the previous witnesses the consumer can very well end up paying more money?

Mr. SCHWEIGERT. Yes, sir, I do.

Mr. SKELTON. Because of lack of competition?

Mr. SCHWEIGERT. Yes, sir.

Mr. SKELTON. Thank you so much.

Mr. SCHWEIGERT. Thank you.

Mr. HAHN. Now, Mr. Chairman, if we have any more witnesses who want to appear with the oil jobbers I'm just going to ask them to come up and give their name, and their company.

Mr. SKELTON. May I ask this last gentleman one question. Just one more question.

Mr. SCHWEIGERT. Yes, sir.

Mr. SKELTON. Is there any other supplier as far as you know that's as good as Texaco or Getty that would be interested in your operation?

Mr. SCHWEIGERT. Well, I don't know. There's nobody that's come to us. There is nobody that's come to us.

Mr. SKELTON. So you're saying the same as the others? No one has come to you?

Mr. SCHWEIGERT. No, no one has come to us. Getty was the last people. We've been doing real well with Getty.

Mr. SKELTON. Thank you.

Mr. SCHWEIGERT. Thank you.

Mr. HAHN. Mr. Chairman, I might say that some of the companies don't consider the farm business as very desirable. So, as you mentioned, they've been having some tough times, and I'm afraid this is a problem.

By and large, it's been our members that have been the backbone of the first and supply to rural America, and to the farmer.

Mr. SKELTON. Do you have any other witnesses, Mr. Hahn?

Mr. HAHN. Not that I know of. If they're here they should come forward.

Mr. SKELTON. OK. And anyone else coming under Mr. Hahn's category that he is not aware of?

[No response.]

Mr. SKELTON. Would you wish to summarize?

Mr. HAHN. I have an answer to Mr. Orban's question about whether Conoco and Amoco have any exchange agreements with Getty, and I am told that they do have, and they have two outtakes in Great Bend, KS, and Scott City, KS, where all the companies are served out of that supply.

In the last minute, I guess, that we have, we'd like to emphasize that we were unlike some people in the industry. We didn't try to oppose the merger. We have been unwanted, and we have, in large measure, helped to build the business, and particularly the Skelly business. The Skelly was merged into Getty. And we think that, again, that the Government's role should be in protecting the distribution process, the marketers, the dealers, the truckstop operators, and the people they serve, because nobody else is going to be very interested in them. We think the FTC has done exactly the opposite of what they should have been doing. Instead of protecting the competition they have been literally destroying it, and you've heard no one tell you that anyone else is competing for their business. There would be very few people to compete for it.

I appreciate your coming here, and appreciate you having hearings in Washington also.

Mr. SKELTON. Thank you so much, Mr. Hahn.

Now, we will have Will Bradley and Alan Thiemann.

Mr. Bradley, you have 45 minutes. I appreciate Mr. Hahn staying within his time limit, and you're off and running.

TESTIMONY OF ALAN J. THIEMANN, GENERAL COUNSEL, NATIONAL ASSOCIATION OF TRUCK STOP OPERATORS

Mr. THIEMANN. Mr. Chairman, my name is Alan J. Thiemann. I am general counsel for the National Association of Truck Stop Operators.

Mr. SKELTON. Without objection, your the statement will be placed in the record. If you wish to summarize it that will be fine.

Mr. THIEMANN. I will, Mr. Chairman. I would only ask that I be permitted to file a corrected copy with you in Washington on Monday when I return.

Mr. SKELTON. That would certainly be fine.

Mr. THIEMANN. Thank you.

What I'd like to do this morning, Mr. Chairman, before I ask Mr. Bradley to introduce the rest of our witnesses, and to do the individual testimony, is to try to address the problem that you spoke to in your opening statement. The FTC seems to be having a problem understanding why the anticompetitive effects that we've been focusing on for the last 6 to 8 weeks in the debate after the announcement of the merger are indeed violations of the antitrust laws.

What seems to have been lost on the Federal Trade Commission is that the essence of our arguments form the basis of antitrust violations, which they as a governmental body have been charged with preventing.

What I'd like to do briefly then is to try to describe to you why the FTC has a statutory responsibility for assessing these anticompetitive effects on the downstream market. Indeed, the Commission should have already taken them into account in coming out with the proposed consent order.

Since they did not do that, we have been trying for the last 2 months to describe to the FTC what would be necessary in revising the consent order to take account of these anticompetitive effects, and make the whole transaction one that does meet the standards under the antitrust laws of this country.

The first problem of the two part analysis that we will be presenting to the FTC in our comments by May 7 is to focus on the effects on the downstream market which arise solely because of the remedy chosen by the Federal Trade Commission in assessing one part of the Texaco-Getty merger.

As you've already noted, the only antitrust violation that the Federal Trade Commission saw in the Midwest is the Chase Pipeline problem. Under the acquisition of Getty, Texaco would own an interest in two pipelines to serve the Denver area.

Because of that overlap, the FTC found it necessary to require Texaco to divest the Chase Pipeline. That's the only antitrust problem they saw. Because of practical problems, however, the Commission decided that the only way the pipeline could be a viable entity in the divestiture was to attach both the refinery at the one end, and the marketing at the other end into the divestiture package.

This flies in the face, Mr. Chairman, of the FTC's own statements in past years about what role transportation plays in the oil industry. The Chase Pipeline, or any other pipeline, has been considered by the FTC in other instances as a separate entity. There is no reason in this case for the FTC to have tied in the refinery and the marketing at either end to make it viable.

By choosing a remedy which has gone beyond the necessary boundary to correct the antitrust problem the staff found, they have created an anticompetitive effect.

Now, we've already testified in Washington, and you've heard already this morning from the jobber side of the Getty structure, and you'll hear in a few moments from the truckstop and fuel stop seg-

ment of the marketing industry, some more details about what these anticompetitive effects are.

Briefly let me summarize how it seems to come out.

If you end up with less supply, or you end up with less output out of El Dorado, you end up with increased prices from the supplier to the wholesalers, the jobbers, or the truckstops. Those prices in turn must be passed along to the ultimate consumer, the motorist and the truckdriver, the national account carrier, and the independent owner-operator. Both of the latter two are primarily the customers that we in the truckstop industry serve.

Obviously if the prices to truckstops that are being charged by a new supplier go too high, we're going to face the real possibility of having truckstops closed. We don't have truckstops on every corner of every town in this country. We're on interstate highways, and primary highways. If a truckstop closes that's a 15 to 30, or perhaps more, miles to travel for a truckdriver before he can get to another truckstop.

Even in an instance where there may be several truckstops located in close proximity, if one closes you have a very drastic reduction in competition.

You've already heard testimony here this morning, and we can attest to it, there are not that many other additional major suppliers in the Midwest. The ones which remain don't necessarily have the same orientation in serving the truckstop industry that Getty has had in the past, and it's very likely that as a result of the order of divestiture by the FTC, the truck stop industry will suffer major setbacks.

We don't understand why the FTC can't see that as an anticompetitive problem. It certainly is, and under the antitrust laws we submit that the FTC is not in a position to choose to remedy one problem with Texaco-Getty's merger by imposing anticompetitive effects on the downstream market. That certainly violates the antitrust laws, and certainly makes no sense.

Mr. SKELTON. Let me ask you something right there.

Is there some legislation that might be of some assistance to your problem as you see it?

Mr. THIEMANN. Potentially, Mr. Chairman, in the House through Representative Florio, and in the Senate. I believe Senator Kassenbaum just last week, introduced legislation corresponding to Congressman Florio's that would essentially require divestitures to be completed before the final approval of the merger between Texaco and Getty, or any merger. Companies of this size would have to await final approval until any divestiture plan that comes out of the FTC's analysis, or any court proceeding, would be completed and approved. In this instance, in the Texaco-Getty merger, that would require both the divestiture in the Northeast, and the divestiture in the Midwest, to be finalized by the FTC before final approval could be given to the overall merger.

Mr. SKELTON. Are you satisfied with the Socal decree, and what it has said?

Mr. THIEMANN. Not entirely, Mr. Chairman. I believe that the Socal consent order contains a provision which improves upon the divestiture arrangement that was included in Texaco-Getty.

As you will remember, in Texaco-Getty the only language that the FTC included in the consent order is that any new supplier chosen and approved by the FTC must be an ongoing viable competitive entity. We feel that's a pretty toothless safeguard, and we've been pushing before your subcommittee, and elsewhere on the Hill, and to the FTC for stronger safeguards being imposed in the merger. Those are the major revisions that we've outlined, and are contained both in our statement, and earlier in April in Washington, and in our statement which we've presented this morning.

The actual language of the Socal provision on divestiture adds three specific topics to be considered by the FTC. They are that petroleum product exchanges, crude oil supply arrangements, and equity crude oil arrangements, have to be considered by the FTC to be the elements of an ongoing viable competitive entity. That's a much more detailed explanation of what the FTC is going to require out of a new supplier, a purchaser of the Gulf assets.

If similar safeguards had been attached in the Texaco-Getty merger, I think we would had a lot less difficulty seeing that as meaningful safeguards. They are not probably everything we need. I think that the petroleum product exchanges go a long way down the road to the marketing problems. Mr. Orban's questions about the exchanges out of Chase for Conoco and Amoco proves the point.

But we think in addition to these three criteria that the FTC has now announced in Socal-Gulf it would probably still be necessary to pay more direct attention to the downstream marketers by requiring that the new supplier, or purchaser of Getty assets, should already possess at the time of approval an adequate supply of crude to run the El Dorado refinery at the 1983 levels.

This is the only way of assuring that production is not cut, or that the efficiency of the refinery is not harmed significantly.

But the second element of what we would see as necessary to revise the consent order is to insure that the purchaser of Getty assets is capable of conducting and intends to conduct an aggressive marketing campaign program that would involve the downstream marketers. We've already laid out in very concrete terms in our earlier testimony in Washington some of the elements of the Getty National Truck Stop Program. In addition to which I point out that the national name brand recognition that Getty has enjoyed is a critical element to that also.

So, no, Mr. Chairman, I'm not satisfied entirely with the Socal language, but it represents a dramatic improvement over what was put in by the FTC in the Texaco-Getty merger.

I would only point out that we still have had no indication out of the Federal Trade Commission that they are going to impose the same provisions in Texaco-Getty in any final consent order. I think it's been as a result of the heated debate that has been focused on what the FTC's consent order in Texaco-Getty did, or more appropriately, did not do, that led them to strengthen that language in the Socal-Gulf merger.

Until we see the actual language in the final consent order we still don't have the guarantees. So while we're optimistic that this represents recognition by the FTC, it does us no good unless and until the final consent order in Texaco-Getty actually contains this

language. As I suggested, even the Socal language does not totally address all the points that we would like to see addressed.

The second half of the antitrust analysis that must be done by the FTC to really assess what is the preferable way to go in the Texaco-Getty situation. Just to summarize, since we got off on Socal, the anticompetitive effects on the downstream market brought about by the order of divestiture, is an illegal remedy, in our opinion.

It's even more incredible that the FTC should choose an illegal remedy to try to correct the Chase Pipeline problem when it had at least three other remedies available to it that would not have involved divestiture that would have solved the Chase Pipeline problem.

Texaco already has for sale the Casper, WY, refinery that is closed. That feeds directly into the Wyco pipeline, which is the other pipeline that serves the Denver area and which Texaco already owns a partial interest in. It would be very easy back in February for the FTC to have ordered Texaco to divest the Casper, WY, refinery along with Wyco.

Two, either the Wyco or the Chase Pipeline, or both of them, could have been directed to be retained as common carriers. This would have assured that all of the shippers had access to the pipelines, and had guarantees about the tariffs that would be charged for use of the pipeline because those would be regulated by the FERC.

The third alternative that the FTC had, but apparently did not consider worth considering as the solution to the problem, would have been to guarantee product to the unbranded marketers in the Denver area to assure that the concentration that the FTC saw as being in violation of the antitrust laws, could be remedied.

So, any of the three, singularly, or in combination, would not have involved the divestiture of the Midwest assets. They would have allowed Texaco to retain those assets.

Frankly, Mr. Chairman, any of these would have provided the kind of strong replacement for Getty that we have been arguing for since the onset of this debate. Texaco clearly would meet those tests, in our view.

Inasmuch as Texaco hasn't seen fit to come forward, however, we believe that the same criteria need to be imposed in the Texaco-Getty merger so that we will be adequately protected, and the anticompetitive effects, which I've listed, will not occur.

In summary, let me simply note for you that immediately after the April 11 testimony at which the FTC suggested they would consider concerns of the downstream marketers, we at the National Association of Truck Stop Operators called the FTC and said we'd be available at their convenience to meet with them to discuss the problem. We were told it would not only be inappropriate, to meet but that they thought they really didn't have the statutory authority to consider our concerns.

Mr. SKELTON. But didn't they promise at their hearing that they'd do that?

Mr. THIEMANN. Yes, Mr. Chairman, the impression that we had that they were willing to meet with us. However, those statements apparently did not get conveyed to the right people because we did

not get a favorable response when we asked to meet with them. Perhaps they feel that it would be better to do it after May 7, but we think that that is not an appropriate time.

Mr. SKELTON. You have 28 minutes left, Mr. Bradley.

Mr. THIEMANN. Mr. Bradley.

Mr. SKELTON. Thank you very much.

[Mr. Thiemann's prepared statement follows:]

PREPARED STATEMENT OF ALAN J. THIEMANN, GENERAL COUNSEL, NATIONAL ASSOCIATION OF TRUCK STOP OPERATORS

Good morning, Mr. Chairman. My name is Alan Thiemann and I am General Counsel for the National Association of Truck Stop Operators. NATSO testified before your Subcommittee in the joint hearing with Chairman Bedell's General Oversight Subcommittee on April 11. We are here today to supplement that testimony.

With me this morning are Will Bradley of B&D Oil Co. in Lebanon, Leonard Loethen of Sweet Springs Getty Truck Stop in Sweet Springs; Russell Turner of Viking Truck Stop, Inc. in Winston; Jerry Wiedmaier of Wiedmaier Truck Stop in St. Joseph; Tom Underwood of Underwood Oil Co. in Springfield; Gary Brown of D.S. Caldwell Oil Co. in Richland; Greg Hicks of Brown & Hicks Oil Co. in Lake of the Ozarks; Larry Gerken of Gerken Oil Co. in Warsaw. Also with me are Neil McCullum and Bob Curley of Metro Truck Plaza in Kansas City, Kansas and Don Richard of Richard Oil Co. in Humeston, Iowa.

Mr. Chairman, these gentlemen represent the substantial interests of Getty truck stop and fuel stop owners and Getty jobbers whose business viability has been ignored in the merger with Texaco. They are here to relate briefly how each of their small businesses may be harmed by the Texaco/Getty merger as it has been tentatively approved by the Federal Trade Commission. As you will remember from our earlier testimony, NATSO contends that this merger is highly illustrative of the problems which may potentially arise for downstream marketers when oil companies merge.

Before I ask Mr. Bradley to take over presentation of our individual testimony, let me quickly summarize NATSO's position on the consent order. Since the April 11 hearing, we have developed additional information that bears on what possible alternatives exist to the proposed consent order. To some extent, then, we have made certain refinements in our position.

NATSO submits that the FTC must ensure that the strongest replacement for Getty is found. Otherwise, the ordered divestiture of the Getty assets in the Central region will create a serious potential for a substantial lessening of competition in the retail, downstream market. We have gone on record repeatedly since this divestiture was announced as challenging the legal analysis performed by the FTC in failing to look at or understand the competitive structure of independent marketing that exists in the 15-state area. Accordingly, the remedy proposed by the Commission to correct the asserted antitrust violation arising from Texaco's ownership of two pipelines serving the Denver, Colorado market, is legally indefensible. It represents a classic example of using of using a cannon to shoot the fly when a popgun would do.

As you are aware, Mr. Chairman, a chorus of groups, including members of Congress, have begun to call for Texaco to retain the Getty assets in the Midwest. NATSO believes there may indeed be merit to this suggestion. Texaco is a sound financial company with more than the supply of crude oil necessary to operate the El Dorado, Kansas, refinery at its present level. Texaco's already ample reserves will be enhanced greatly by the acquisition of Getty's reserves. Texaco is also an experienced marketer which is certainly capable of conducting the kind of aggressive sales, advertising and credit card programs Getty retail marketers need to remain competitive. Equally important, Texaco has national brand name recognition. Moreover, the FTC has already conceded that Texaco does not have any refining or marketing presence in the 15 states which would create a problem under the Clayton Act.

Consequently, if the FTC had analyzed the Chase Pipe Line issue correctly, it could have reached a far more reasonable solution than throwing marketers and others in the mid-continent into chaos over a new source of supply. Nevertheless, the FTC has insisted on pursuing a divestitute remedy that itself creates anticompetitive effects. We cannot fathom how this result makes any sense. It clearly is not legally justified under the antitrust laws.

Other less drastic alternatives for resolving the Chase Pipe Line problem exist. The FTC should be forced to negotiate with Texaco find one that does not have the anticompetitive by-product which this divestiture makes imminent. Although NATSO does not propose or favor any specific plan, we note for this Subcommittee several alternatives that would, in our opinion, be legally sufficient and enable Texaco to retain the Getty assets at issue.

The FTC could order Texaco to divest the Wyco Pipe Line, which also serves the Denver area and of which Texaco is a partial owner. Ironically, Texaco already has for sale its closed refinery at Casper, Wyoming, which can supply product to Wyco.

The FTC could order Texaco to convert the Wyco and/or the Chase pipelines to common carriers, thereby assuring access and reasonable tariffs to all shippers of refined product.

Alone or in combination with the above alternatives, the FTC could order Texaco to guarantee a supply of refined product to unbranded jobbers in Denver at 1983 levels at a reasonable price. Such a remedy is analogous to the provisions for California independent refiners and of Power Test to which Texaco has already agreed.

In addition, we think Texaco should be required to operate the Getty assets and to ensure that an ongoing, viable, and competitive refining, transportation, and marketing business exist in the 15-state region. We further submit this latter requirement ought to be imposed on Texaco for a reasonable period of time, such as five years, to ensure stability in the market.

In short, Mr. Chairman, NATSO contends the FTC has it within its express power to come up with a consent order that eliminates the antitrust problem with Chase without requiring the divestiture of El Dorado and the related assets, since it will likely cause small business marketers to suffer business disruption and anticompetitive effects. This Subcommittee should consider sending the FTC a strong message that such an alternative is preferable. It would ensure that a strong, viable company replaces Getty in the market and that those assets would be operated to preserve a competitive retail market.

If, however, the FTC will not sanction requiring Texaco to keep the Getty assets, then NATSO repeats its concerns that those assets must be sold to another financially strong and competitive company. We contend it is absolutely critical that the new owner of the Getty assets be able to institute a vigorous and complete operation at all phases without the need to gain "hands-on" experience, especially in the marketing sector. If the FTC approves a purchaser who possesses little or not marketing experience, we downstream marketers face the prospects of another PASCO situation, which we described in detail in our earlier testimony.

NATSO submits the best and fairest method of finding and approving an acceptable purchaser is for the FTC to announce more detailed criteria as part of the final consent order. It is not, we believe, appropriate to leave potential buyers in the dark about the decisional standards to be applied by the FTC. They should be put on notice now. From the perspective of truck stops and other marketers, the FTC must commit to using more specific language in assessing whether a purchaser will be able to continue operating the Getty assets as a "viable, competitive entity." Earlier this week, the FTC has virtually admitted the Texaco consent order is deficient by issuing a much stronger provision in the proposed Socal consent order.

In order to meet both these objectives NATSO suggests the proposed consent order be revised as follows:

Any purchaser of Schedule A(2) properties must be able to demonstrate to the Federal Trade Commission that it meets the following criteria:

(1) it possesses an adequate supply of crude oil necessary to operate the El Dorado refinery at its 1983 level; and

(2) it is capable of conducting and intends to conduct an aggressive marketing program, including the marketing of products from El Dorado through the use of independent marketers.

Related to this major revision of the consent order, NATSO has called for final approval of the merger to be delayed until any divestiture plan is completed. Congressman Jim Florio has introduced a measure, H.R. 5452, which has this effect. We also understand corresponding legislation was just introduced in the Senate as S. 2589 by Senator Nancy Kassebaum. NATSO supports the concept embodied in these bills and urges their passage, or passage of similar legislation, before May 7.

Finally, NATSO also recommended that Texaco be forced in the final consent order to abide by all provisions of the Petroleum Marketing Practices Act until the divestiture of Getty assets is completed. Although NATSO has not yet received written confirmation of this position, Texaco has told us informally it would agree it is obligated to be bound by Getty's existing PMPA contracts and to extend them where necessary.

Mr. Chairman, this list of major revisions to the FTC's proposed consent order is necessary to protect the interests of truck stops and other retail marketers to ensure that the divestiture of Getty's assets in the Midwest does not result in a substantial lessening of competition in the relevant market. If, however, the FTC decides not to include all of these modifications in its final consent order, NATSO offers one other recommendation.

It has become painfully obvious to observers of independent refinery operations in the U.S. that, despite the generally acknowledged availability of crude oil supplies in the marketplace, refiners attempting to run profitable operations using "purchasing crude" have been increasingly unsuccessful. Recent Chapter XI bankruptcy filings by Charter and Powerine, and employee layoffs by Crown, stand as evidence to this problem.

The FTC asserts potential purchasers of the Getty assets, who do not possess sufficient crude reserves, will be able to buy it in the marketplace. NATSO has concluded this possibility would not, in itself, be a satisfactory substitute for actual "possession" of an adequate supply at the time of purchase. To correct this situation, so that the number of potential purchasers is as large as possible, NATSO suggests the following language be included in the final consent order:

It is further ordered that, for ten (10) years following the date that this Order becomes final, Texaco shall offer to sell 80,000 bb/d of crude oil of similar grade and quality to that used in operating the El Dorado refinery in 1983 to any purchaser of that refinery. Such sale shall be in accordance with the conditions listed in Schedule B as appropriate, but at a discount not less than $2.00 per barrel under the posted prices in Kansas.

One last matter deserves brief attention, Mr. Chairman. At the April 11 hearing, FTC's witnesses seemed to indicate to the Subcommittee their willingness to meet with the retail marketer groups who were expressing deep concerns over the anticompetitive effects of the proposed consent order. NATSO, taking FTC's statements in good faith, immediately called to arrange a meeting. So the record is clear, not only was our request rejected as inappropriate at the time, but it was also strongly suggested that our concerns were not properly within the FTC's statutory authority to address. Notwithstanding this surprising reaction, NATSO urges Congress to make its views known to the FTC as forcefully as possible so that downstream marketing interests will be adequately protected in this merger.

Mr. Chairman, NATSO appreciates this opportunity to elaborate on its initial testimony. We again urge this Subcommittee and the General Oversight Subcommittee to take appropriate action to bring our concerns to the FTC's attention. We believe it is absolutely essential to exert as much pressure as possible on the Commission to revise its proposed consent order as we have recommended.

After you have heard from our individual truck stop members in attendance today, we will be pleased to answer any questions.

TESTIMONY OF W.H. "WILL" BRADLEY, B&D OIL CO., INC., AND B&D TRUCK PORT

Mr. BRADLEY. Mr. Chairman, my name is W.H. "Will" Bradley. I'm a partner with Ed Day in the B&D Oil Co., and B&D Truck Port, Inc., in Lebanon, MO. And Ed says he's very sorry, sir. He could not be here.

We want to relay to you especially this morning that you, with your easy manner, made us feel very comfortable at the hearings in Washington. You know how difficult it was for us, and we appreciated the fact that you did have a calming effect for us. I will say, however, that it is much calmer to meet you on our own beautiful Missouri soil.

Mr. SKELTON. It's always good to be home, too.

Mr. BRADLEY. You bet.

Of course, in Washington, sir, you heard me give my fears and apprehensions, and my written testimony, is already submitted.

The ideas that I would give to you here today are just to back up the original testimony. All we basically ask for as truckstop operators, and as oil company jobbers, are the rights and the privilege to have the strongest company possible to be our supplier so that our

assets, the assets that lie outside the Texaco-Getty divestiture situation can have some measure of protection.

Now, this is important to us as small businessmen, as most of us have relied upon these assets to be our basic retirement for later years. If these are diluted, and even eliminated because of the possibility of closing them, then we have no future.

Mr. SKELTON. Let me interrupt you right there. The question is Mr. and Mrs. Average American said, "So what, Mr. Bradley."

Mr. BRADLEY. Mr. and Mrs. Average American do not realize that every time a business goes broke their chances for competition in the marketplace are lessened, not only in the petroleum business, but it's in any other business in our country.

Mr. SKELTON. Which means when there's less competition——

Mr. BRADLEY. There are higher prices, sir.

The average American does not like to face up to these kinds of questions. But when they come in and ask for a job, sir, from a small independent businessman, they don't realize that unless that business makes a profit, the wages cannot be paid. When you employ from 70 to 100 people, and that entity is closed down in a city the size of Lebanon, MO, I'm telling you, it's devastating on the economy. We can see the possibility of closures of not only service stations, but of truckstops up and down the highways, and you say why.

The FTC keeps asking us to show them, and to tell them where they made mistakes in this divestiture situation. Well, it's very simple. Our allocation system of petroleum products within the Getty system is based entirely on the production of the one Dorado-Kansas refinery. If we do not have a guarantee of production from that refinery, then our allocation system is destroyed, and you say why would this be important.

Mr. SKELTON. You're answering the question. Go right ahead.

Mr. BRADLEY. This is important, sir, because only the major oil companies controlling the supplies will really have the option of allocating product. If that refinery is not operated at the 70,000 to 80,000 barrels per day, this will mean less product coming through the system. If less product is offered to the consuming public, it just stands as a simple competitive theory in the business that prices are going to rise.

This is how the oil companies had the tremendous price raises in the early 1970's, and they have continued until today. Is because basically product supplies were cut, and when that happened, prices went up, they made more money, and I would venture to say some retailers made more, as we told you in Washington. Those days are gone now. The consumer is getting the best value for his dollar today in petroleum based upon the small business retail marketer that he's ever enjoyed in history regardless of what the selling price is at the moment. He is getting the best bargain he's ever had based upon the prices of everything else.

The allocation system, sir, is a thing that worries me more than anything else. Now, why is an allocation really important?

When you're operating a retail entity, and an entity like a truckstop, you don't know when your customer is coming in, but when he does you better have product for him. If you don't have product for him he's going to go elsewhere.

If we do not have products available when needed, and again this can happen on the spur of the moment, you can have an influx of sales, and it can almost wipe you out.

Our association with Getty has been that we can call them on the phone and say, "Hey, we've sold our allocation this month and it's only the 20th. Can you give us a little more product?" They will dig through their system for more product have very seldom ever turned us down. They say, "Yes, we'll give you a little more."

Now, if we don't have those contacts, and have to go on the open market to buy products at higher prices, then that price has to be reflected on the pump to the consumer. It's just that darn simple.

The FTC does not seem to think we understand what the competition is all about. Mr. Chairman, there is no competition basically in the petroleum business other than at the end of a pump hose. All the rest of it has controlled measures to help stabilize prices. We don't have that at the end of the pump hose. So, yes, we understand competition probably much more than the FTC could ever imagine because we deal with it daily. So for them to make us out as nincompoops, or nuts, that we don't know about competition, it actually infuriates me because I believe they are the ones who do not understand the competitive nature in retailing of merchandise across this Nation.

With your permission, sir, I would like to insert my latest letter to Timothy Muris of the Federal Trade Commission outlining what I think he ought to do.

Mr. SKELTON. It will be entered without objection.

[The letter referred to above follows:]

B&D OIL CO., INC.,
Lebanon, MO, April, 27, 1984.

Mr. TIMOTHY MURIS,
Director of Bureau of Competition, Federal Trade Commission, 6th Street and Pennsylvania Avenue, Washington, DC.

DEAR MR. MURIS: We were very sorry we did not get to meet you on April 11th at the Small Business Oversight and Energy Subcommittee hearings. However, we were most happy to get to visit with Mr. Ron Rowe of your staff via telephone from Ronald Ziegler's Office.

We understand you have seemingly had many adverse comments concerning your sweeping divestiture order in the Getty/Texaco merger situation, and two of these letters came from us. We understand, also, that no one, in your opinion, is offering any recommendations or solutions to any of the downstream problems. With this in mind, please consider the following.

Please rescind your consent order so that revisions can be made to protect as many of the problems for downstream marketers as possible. New hearings should be considered by your department, which might include ideas from refining and marketing interests, along with input from the Texaco Management. The very first determination should be whether Texaco would like to be an aggressive marketer of the Getty entity and be the operator of the modern Eldorado, KS, refinery.

If it is determined, in open hearings, that Texaco, in fact, would have this desire, then we should work on all the anti-trust and anti-competitive problems your department might envision. For instance, the Chase Pipeline could be operated as a common carrier line by Texaco. Any retail outlets in the Denver, CO, area that create a monoply situation could be divested to either some other company or to the present operators, with no long term supply contract included.

If it is determined that Texaco truly does not want to refine and market in the midwest area, or is unwilling to comply with any new divestiture order as recommended above, then we would suggest your consideration of any future purchaser of the Getty Properties to be able to demonstrate to the FTC that it can meet certain criteria, to be stipulated. These stipulations might include the requirement that the purchaser must possess an adequate supply of crude oil to operate the Eldorado Refinery at its 1983 level of production. I would hope Texaco would be required to

supply at least 80,000 b/d of crude oil of proper quality to the refinery for a period of ten (10) years so this very modern refinery can continue to supply vital refined products to the midwest, or breadbasket, of our nation.

Also, any purchaser should be capable of conducting and has the intention of conducting an aggressive marketing program, and this should include the marketing of products from the Eldorado Refinery through the very important Small Business (independent marketer) sector, which has been the established practice in the Midwest by Skelly/Getty and other viable companies for many, many years.

Again, Mr. Muris, we do not find fault with the overall idea of the Texaco/Getty merger, but we just feel certain areas need further study for the good of the midwestern section of our great nation. It would appear to us that all problems could be resolved to a reasonable level if we can just have the opportunity to work them out.

Won't you please give us this one chance?

Thank you.

Respectfully yours,

WILL BRADLEY.
W.E. DAY.

Mr. BRADLEY. Also, you'll get a kick out of seeing the front page of the Lebanon, MO, Daily Record, which gives a tremendous story to the public in our part of the country.

Mr. SKELTON. Without objection, so ordered.

[The article referred to above follows:]

[From the Lebanon Daily Record, Apr. 25, 1984]

THE TRUCK STOPS HERE, BUT FOR HOW LONG?

(By Jo Woodward)

If the Federal Trade Commission sticks to a decision which makes selling a refinery in El Dorado, Kans., part of its consent to a merger between the Texaco and Getty oil companies, more than 200 truck stops in the Midwest and Plains States may suffer, said National Association of Truck Stop Operators president Ron Ziegler.

Selling the refinery could leave thousands of marketing outlets in the Midwest high and dry and create a sustantial lessening of competition as the current source of supply for over 200 truck stops is eliminated, Ziegler stated in a press release made this past week.

Local oil company and truck stop operators Wil Bradley and Ed Day, partners in the B and D Truck Port and B and D Oil Company in Lebanon, said in an interview Tuesday their business would be in jeopardy if the FTC does not rescind its order which directs Texaco to sell the Kansas refinery.

"There are only two major operators in Lebanon now," Day said. These are Shell and Amoco. There are also approximately five companies considered as "semi-major" suppliers. "We've lost so many in our area that our concern is not just products, but the services that go with it—credit cards, advertising, promotions and so forth. We have to have these things so customers traveling through from five, six or seven hundred miles from here know they can find the services here." Day added that less competition also mean prices would "skyrocket' as each supplier pulls out of the area. "You will see the prices go up."

Will Bradley said the closing of the refinery could also make it more difficult for independent operators to buy in bulk. In testimony before a Congressional panel Bradley said, "I know my business is going to suffer (if the FTC does not cancel its order for the sale of the refinery)."

The central point in NATSO's argument is that the FTC did not take into consideration the serious threat to competition among retail marketers in the Midwest. The sale order of Getty assets could produce dire consequences for the oil jobbers, truck stops and retail gasoline stations across a 15-state region.

Day said, "Any drop-off of refined products under any new owner of the El Dorado refinery will severely hinder present truck stop customers in the central region in our ability to be competitive."

What Bradley, Day and other members of NATSO are hoping to do is bring about a reversal of FTC's sale order to Texaco. Bradley explained, "We'd like to bring enough pressure from people to make the FTC listen so the 'down-stream' marketing people can be heard. We're not part of the oil companies' assets that have been put on the market." There are direct markets, considered part of a company's

assets, which are owned or under the control of the oil company through leasing. "The independent jobbers—like ourselves—normally own or control their own facilities," Bradley said. "With Getty, 70 to 80 percent of their entire marketing was through customers like us. Only 20 or 30 percent of it was sold to stations controlled by the company. What the FTC is ordering could deal out the little fellows."

Final approval of the Texaco-Getty merger, including the controversial refinery sale order, will probably not occur until later this summer, but Congressional pressure already seems to be building for some changes in the conditions placed upon Texaco if it is allowed to buy Getty. May 7 is the closing date of testimony in the case.

Mr. BRADLEY. I would like to close off, sir, by making little bit of comment in saying that I believe the FTC should consider using nothing more than some good old fashioned Missouri type logic.

Mr. Chairman, this is the same logic——

Mr. SKELTON. I think you're asking an awful lot now.

Mr. BRADLEY. Yes, sir, I know. But this is the same logic, sir, that I can well remember that one of the greatest Presidents we ever had, Harry S. Truman used. It is the logic that I have noticed that you use, and that is the logic of listening to all sides of the story before you make up your mind, and then, and only then, can the intelligent decision be rendered. And this is what we pray that the FTC would go back and consider doing so that everyone can be taken care of.

That concludes my remarks. I would like now at this time to introduce to you some of my very good friends, and competitors, I might add, who are operating truckstops——

Mr. SKELTON. You have exactly 20 minutes left.

Mr. BRADLEY. We're doing wonderful.

First of all, I have with me Mr. Jerry Wiedmaier of Wiedmaier Truck Stop in St. Joseph, MO.

Mr. SKELTON. Mr. Wiedmaier.

TESTIMONY OF JERRY R. WIEDMAIER, WIEDMAIER TRUCK STOP

Mr. WIEDMAIER. My name is Jerry R. Wiedmaier, St. Joseph, MO, Wiedmaier Truck Stop Petroleum, Wiedmaier Truck Stop, Inc.

Mr. Chairman, I appreciate the opportunity to address you this morning. I drove some 220 miles to attend this meeting. I think this is very important, and I hope our input is considered very deeply.

Sir, we've been in the truckstop business for 23 years. We started out with a small truckstop, and we've built on to it through those years. Today I consider my truckstop meeting industry standards in that we serve the trucker, the traveler, and the local people.

We have a sizable restaurant operation. We have invested in computerized pumps. We have put canopies over our pumps. We have motel units for the truckers to sleep in. In summary, we have invested sizable amounts of dollars to stay with the industry level.

I was very shocked, as everyone in this room was, to know of the merger. In the last 2 years two big refineries in Kansas City have been closed. We rely on El Dorado.

You ask what's going to happen to the consumer. The consumer will pay more and receive less service as a result of not only refineries closing, but the possibility of my truckstop closing.

Over the years, or I should say before the shortage of 1973, the oil companies were more than happy to solicit new business. The ball game has changed. They control the business today.

Since this merger has been announced I have not been approached by any oil companies wanting my business. We have——

Mr. SKELTON. I would like to interrupt for a minute.

Is there anyone in the room who since the merger has been announced has had an approach offering to supply your operation? Anyone?

[Two people in the gallery raise their hands.]

You have had? OK. When you testify please so state. Go ahead, Mr. Wiedmaier.

Mr. WIEDMAIER. We also service farmers and other service stations. I have seen over the last few years where as a result of outages I have pleaded for additional allocation. We had an outage just over the holidays, Christmas—as a result of the severe cold weather.

What would happen if we had another Iran-Iraq blowup of the Mideast? I tell you what's going to happen. I'm going to be out of business. I will not find a supplier, under the FTC ruling, as I interpret their consent order.

Sir, I hope very much that you will consider my situation, as well as my fellow truckstop operators and jobbers, when you go back to Washington and try to speak a little common sense to those people.

Thank you.

Mr. SKELTON. Mr. Wiedmaier, thank you so much.

Mr. Bradley.

Mr. BRADLEY. I'd like to call on Mr. Bob Curley of a truckstop in Kansas City, KS, sir.

Mr. SKELTON. Mr. Curley.

TESTIMONY OF BOB CURLEY, METRO TRUCK PLAZA

Mr. CURLEY. Mr. Chairman, it's a pleasure to be here. Bob Curley, Kansas City, KS, with the Metro Truck Plaza. We have two truckstops; one in Kansas City, and one in Brookfield, MO.

Mr. SKELTON. One in Brookfield?

Mr. CURLEY. Brookfield, yes.

Mr. Neal McCullum is the owner. He is very sorry he couldn't be here today.

Speaking for two truckstops, this merger we feel like is going to affect our truckstops very much. As you know, several years ago—a few years ago, when Getty Oil Co. sold their truckstops, Mr. McCullum purchased the truckstop in Kansas City, which is one of the largest sales in truckstops that Getty Oil Co. had.

When he purchased these truckstops he was assuming he was going to have a good supply of product.

At the present, our allocation means everything to us. Just like Mr. Wiedmaier said, we have had two refineries closed in Kansas City. This leaves El Dorado, our only source of supply.

With this merge we feel like we will have no supplier. Yes, competition is great, but there will be no competition because we will be out of business if there is no supply for us in product.

I really believe, sir, this is about all I have to say at this time.

Mr. SKELTON. That's quite a bit. Thank you so much. I appreciate your coming up.

Mr. BRADLEY. We have Mr. Leonard Loethen from Jefferson City.

Mr. SKELTON. Mr. Loethen. Thank you for joining us.

TESTIMONY OF LEONARD LOETHEN, LOETHEN OIL CO.

Mr. LOETHEN. Thank you, Mr. Chairman.

My name is Leonard Loethen. I am the president of Loethen Oil Co. here in Jefferson City. It's a family-owned operation with myself and five sons. And I've been in the oil business 32 years here in the Jefferson City area. Of the 32 years I've been with Skelly-Getty for 20 years, during the time I've been with them we've purchased a lot of real estate from Getty.

I'm saying two truckstops. One is on I-29 of Rockport, MO, and one on I-70 at Sweet Springs, MO, and several bulk plants. One is located in Eldon, which is near Lake of the Ozarks area, and we have one here in Jefferson City, and we supply around 300 farm accounts also.

My main concern is if we change suppliers to get the right buying price, and the right type of advertising, I wouldn't object to it. But for the past 20 years with Getty it has been very competitive in selling price, and service also.

But my main concern is—excuse me. My last purchase was just two months ago, another service station in Lake of the Ozarks area for a total of a quarter million dollars with a guarantee of product of 900,000 gallons of gasoline a month, which I'm looking to someone to get the 900,000 gallons of gasoline if Getty is not in business, this transaction isn't finalized yet. It will probably be completed in another month.

That is another reason that I'm concerned about this operation.

But, all in all, if it has to go through I'm sure that this real estate would be worth probably about half the value as it is.

We employ over 100 employees ourselves; then my operators over the State of Missouri, I'd say, have another 100 employees. There's about 200 people indirectly on my payroll. And we operate five truckstops on the interstate system in Missouri. Two of them are Getty's, and the other three are——

Mr. SKELTON. Did you raise your hand a while ago when I asked——

Mr. LOETHEN. Yes.

Mr. SKELTON. Do you want to tell us about that?

Mr. LOETHEN. Well, one supplier was Standard Oil who contacted me. And out of the five truckstops, they will take one. And that one is located on I-29 in Rockport, MO. That is the only location where they don't have any——

Mr. SKELTON. So you've had no one concerning the other four; is that correct?

Mr. LOETHEN. Yeah. In addition, we have 20 more service stations. And you've got to appreciate this; if you're on their side of the fence they don't want to put one station on top of another one when they already have representation in that area. But on this I-29 they do not have anything between Omaha and Kansas City.

That is the only outlet I could go with them, and I don't want to do that because—it may jeopardize all the rest at present, although I'm not saying it will not do it if this thing goes through.

But my other concern is the truck credit card program, is one thing that Getty has, and Standard Oil doesn't have. They do have a good car program only, and so that's another concern.

OK. I don't want to take any more of your time, but if you can be of any——

Mr. SKELTON. Just a minute. We ran out of tape over here.

All right. I have one other—one last question for you, Mr. Leothen.

You're referring to the value of your property and business. Can you give us a ballpark estimate on the effect this will have on the value of your business?

Mr. LOETHEN. I'm saying that if I would be forced to sell this real estate for some other purpose, whatever that market value of the land for other use there's no need for Standard Oil, or any other company, wanting to buy these service stations when they have one within half a mile from it. That's my main concern.

Mr. SKELTON. So you're saying the value goes down appreciably?

Mr. LOETHEN. At least half. But also I do have a contract with Getty called a jobber contract. This runs another 2½ years. I have a 3-year franchise with them, and I'm wondering who is going to pick up the slack for those 2½ years if this merger does go through. I'm sure someone is obligated for my franchise.

And by buying this expensive service station out there with a guarantee of that much product, then you're talking about a quarter of a million dollars in Lake of the Ozarks. Someone is going to lose some money on it. And that just happened 2 months ago.

Mr. SKELTON. Thank you very much for meeting with us.

Mr. BRADLEY. I'd like to ask Don Richard of Richard Oil Co. in Humeston, IA.

Mr. SKELTON. You have 12 minutes left.

TESTIMONY OF DON RICHARD, RICHARD OIL CO.

Mr. RICHARD. Mr. Chairman, I'm Don Richard from Richard Oil, Humeston, IA. I own or supply a Getty truckstop in Missouri, two Getty fuel stops in Missouri, and one in Iowa. All of these fuel stops, except one, are on I-35.

I'm also, in a small way, a branded marketer of Conoco, Phillips, Amoco, and Mobil in Iowa. I chose to expand with the Getty brand because of their excellent crude supply, and their aggressiveness in the marketplace.

My concern is with the fact that Getty, along with one other—is the only supplier I have that I feel is really attuned to the truckstop industry, including Amoco, as Mr. Loethen said. Amoco has a good program, but they don't have the credit card program that Getty has, nor are they really attuned to the truckstop industry.

I raised my hand, as I've had one major supplier talk about one of my fuel stops.

Mr. SKELTON. One of your fuel stops out of how many?

Mr. RICHARD. Out of the four.

Mr. SKELTON. All right.

Mr. RICHARD. Only one because the problem would be that I'm across the street from two of his present customers. So the other two he would just have to—well, couldn't talk to me about those.

So that wouldn't solve my problem if the one who winds up with Getty's assets are not competitive in the truckstop industry. I think that is the very key to which I have to address, is someone that will be competitive in the truckstop industry because on I-35, again, if I had to look for another supplier I really just don't have any choice except maybe at that one truckstop, to be a viable competitor. And if those stations are not competitive, then that definitely would decrease the competitiveness up and down I-35 between Kansas City and Des Moines.

Mr. SKELTON. And you agree with the other witnesses, in essence, that Mr. and Mrs. America will end up paying more money?

Mr. RICHARD. Definitely they would. Definitely they would.

In closing, I'd just like to say I think the FTC needs to modify its conditions to see that a viable purchaser, preferably a major integrated oil company, who: one, has sufficient crude supply at competitive conditions to operate that El Dorado refinery, and two, expertise in the truckstop industry; such as they have at least attempted to do in the Socal deal. To see that competition not be restricted in my area because even though—as I said, I have other brands in Iowa, they are just not really effective in the truckstop industry.

Thank you.

Mr. SKELTON. Thank you, Mr. Richard. We appreciate your driving all the way down here.

Mr. BRADLEY. I'd like to ask Mr. Greg Hicks from Brown & Hicks Oil Co. and Truck and Fuel Stop, Camdenton, MO.

TESTIMONY OF GREG HICKS, BROWN & HICKS OIL CO., INC.

Mr. HICKS. Mr. Chairman, I'm Greg Hicks from——

Mr. SKELTON. You better use the other microphone there, too. There you go.

Mr. HICKS [continuing]. From Brown & Hicks Oil Co. in Camdenton, MO, which is down by Lake of the Ozarks, and we boast about 2 million people that visit our area each year.

And as a Getty jobber, the past 2 years I have been afforded the opportunity to go to a truckstop seminar in Kansas City to participate in a program that Getty Oil Co. put on. They, at these seminars, introduced us to a new national Getty truckstop credit card program. They introduced us to a new George Goober Lindsay promotional material.

If we did not have these types of capabilities being affiliated with a large truck—a large major oil company, we would have to use our own finances to come up with a promotional item, or another type of a credit program. And in order to do that we would have to increase our prices.

And, as Leonard Loethen said, he is from Lake of the Ozarks area, too, there's two operators that are competing down there that are both Getty marketers. When you have two marketers in one area that are going to both be out looking for a supplier, are forced

with the possibilities of having to increases their prices, and because their services are not comparable.

I don't think you'll have to ask what John Q. Public is going to say. Instead of a certain percentage of those 2 million people letting their steam off at Lake of the Ozarks, they might come to Washington.

That's all I have to say.

Mr. SKELTON. Thank you so much. Thank you.

Mr. BRADLEY. Mr. Russ Turner from Viking Truck Stop, Winston, MO.

Mr. SKELTON. You have 5 minutes. You're doing well.

TESTIMONY OF RUSSELL H. TURNER, PRESIDENT, VIKING TRUCK STOP, INC.

Mr. TURNER. Mr. Chairman, my name is Russell H. Turner, president, Viking Truck Stop, Inc. at Winston, MO.

Several years ago we have seen—or through the past years we have seen major oil companies pull out of large areas of the United States. These stations and jobbers, truck stops, have been absorbed by other suppliers or have gone out of business. The reason we were told for these pull-outs was inadequate supply of those areas affected.

This is not the case with the Getty and Texaco merger. It is a case that the FTC has ruled for the divestiture of the Getty assets.

Texaco is a strong, financial, viable company with adequate supply. It has the expertise, and the marketing ability, to provide our needs. Without this marketing concept, we cannot be competitive to our immediate competitors.

In the truck stop industry we have Union Oil Co., Amoco, Fina and Phillips 66 as competitors. These people have national brand recognition; a strong and well put together marketing program. I would recommend that Congress, sir, would consider the FTC's recommendation on this divestiture and that the FTC's ruling be set aside. If this could not be set aside for the recommendations of NATSO that have been presented to you in testimony to be thoroughly and seriously considered, for consideration of any purchaser in the future regarding the Getty assets.

Mr. SKELTON. Mr. Turner, counsel has a question.

Mr. ORBAN. One short question. I don't want to take up too much of your time.

Can you list for the record just briefly those things which Getty can supply to you such as marketing services, and marketing assistance, or things to lure your patrons to your truckstop operation?

Mr. TURNER. Yes, sir.

Mr. SKELTON. That you will be without at a later date.

Mr. TURNER. Well, advertising for one would be one item that we are supported on a national basis through Getty.

The credit card program for cars, which has been existent for some time. In its place Getty has provided us with VISA and MasterCard acceptance at no discount cost to us.

Getty has active representatives who go to trucking companies seeking business, and carry on a very competitive credit card program for the trucking industry.

We would be without building and sign maintenance supports, which we're presently allowed so much.

Uniform allowances would be discontinued. Cost of product would be increased.

These are all added cost to doing business, which would increase our cost in doing business—overhead expenses—and reduces our amount of profit margin, costing us to be uncompetitive within the industry. And as a result we probably would not see a immediate decline, an overnight decline, of truckstops jobbers, and stations, but rather a slow death as we would try to continue to be competitive with our other competition to the general public.

Thank you very much, sir.

Mr. SKELTON. Thank you.

Mr. Bradley, is that it?

Mr. BRADLEY. That's it, sir. In concluding we do truly appreciate you coming back with this hearing situation for us, sir, and thank you very much.

Mr. SKELTON. Thank you. It's very kind of you to arrange to have your associates with you today.

Mr. Lee Lauer will present the retailers and the service station owners.

Please proceed, Mr. Lauer.

TESTIMONY OF LEE LAUER, EXECUTIVE DIRECTOR, PRO AUTOMOTIVE ASSOCIATION OF MISSOURI AND KANSAS

Mr. LAUER. Thank you, Mr. Chairman. My name is Lee Lauer. I serve as the executive director of the Pro Automotive Association in Missouri and Kansas. We represent both service stations, mostly in the area of the franchise dealer, plus the garage operations in that geographical area.

We appreciate the opportunity to appear here this morning to express the dealer's position on this Texaco-Getty merger. We had previously submitted our testimony in hearings in Washington, as well as having some of the people from the SSDA, plus people like you, to testify.

I think our position here in the 30 minutes that you've allowed us on an equal time basis would be to try to get the position, or some of the thinking of the individual dealers in the geographical areas. We have four Getty dealers, and one Texaco dealer that could present an interesting view here.

So I think our format then would be to have them one at a time identify themselves, and testifying, and maybe we could summarize at the end within the time limit.

Mr. SKELTON. That would be fine, sir. Thank you.

Mr. LAUER. I'd like to introduce first Mr. George Riley.

Mr. SKELTON. Mr. Riley.

TESTIMONY OF GEORGE RILEY, RILEY'S METCALF SKELLY SERVICE

Mr. RILEY. Mr. Chairman, my name is George Riley. I operate a service station in Overland Park, KS.

I have a prepared statement I'd like to leave with you.

Mr. SKELTON. Without objection, it will be made a part of the record.

Mr. RILEY. I'd like to show you today what's happening in Kansas City that is trying to do away with the competition by the big oil companies. And I will read my prepared statement.

I operate a Getty service station at the south end of Kansas City. I have been with Getty-Skelly for 15 years. My concern about this Texaco-Getty merger is that I will not have a chance to purchase my place of business. I have sent both Getty and Texaco a letter stating that I wanted to buy my place of business. As yet I have had no reply.

If there isn't an amendment to the PMPA, and/or the right of existing dealers to have first refusal to purchase the location, be part of the FTC consent order, my location will be shut down just like 110 other Getty stations in Kansas City.

Three years ago in Kansas City there were 119 Skelly-Getty service stations. Today there is only nine. Getty has put more than 100 leasee dealers out of business, and their employees, in an attempt to control the market. They will deny this, but in the past 3 years my rent has went from $700 per month to the present $2,500 per month I'm paying right now.

Mr. SKELTON. When did you last pay $700?

Mr. RILEY. Three years ago, sir.

Getty also sells gas to the public on credit at their self-serve stations for 1.9 to 11 cents cheaper per gallon than they sell it to me for. I have to buy 8,000 gallons at a time, and pay cash on delivery.

The service station dealers of this country have been trying to tell the U.S. Senate and Congress for the past 10 years what is happening in the oil companies. And now it's happening. A few of the big oil companies are dividing up the pie. After the merger in Kansas City, Kansas City will only have one major franchise oil company, compared to six 4 years ago. Then where is the competition.

I think—also think that Texaco should be made to offer the full service stations that have been closed down back to the dealers that Getty forced out of business by high rent increase and harassment.

As soon as most of the dealer leasees and independents are out of business the only major oil company that's left in that area then can dictate the price. Then we're going to see gasoline sell for $3 like it does in Europe where there is no competition.

Mr. Chairman, I hope you can help us to put the competition back in the service station marketplace. Thank you.

[Mr. Riley's prepared statement follows:]

PREPARED STATEMENT OF GEORGE RILEY, RILEY'S METCALF SKELLY SERVICE

My name is George Riley, I operate a Getty Service Station at the south end of Kansas City, and I have been with Skelly-Getty for 15 years.

My concern about this Texaco-Getty Merger is that I will not have a chance to purchase my place of business. I have sent both Getty and Texaco a letter stating that I wanted to buy my place of business. I have had no reply. If there isn't an amendment to the P.M.P.A., and or the right for the existing dealer to have first refusal to purchase locations be a part of the F.T.C. Consent Order; my location will be shut down just like the other 110 Getty Stations in the past 3 years.

Three years ago there were 119 Skelly-Getty Full Service Stations in the Kansas City area. Today there are only 9!

Getty has put more than 100 Leasee-Dealers, plus there service employees out of business in their attempt to control the market. They will deny this, but in 3 years my rent has gone from $700 per mo. to $2500 per mo. Getty also sells gas to the public on credit at self service for 1.9 to 11¢ per gallon cheaper than they sell it to me, and I have to buy at least 8,000 gallons per load, cash-on-delivery.

The Service Station Dealers of this country have been trying to tell the U.S. Congress and Senate for 10 years what was going to happen.

Gentlemen now it is happening. The few Big Oil Companies are dividing up the Pie. After the merger Kansas City will only have one major marketer that deals with franchisee dealers compared to 6 less than 4 years ago. Then where is the competition?

I think Texaco should be made to offer the Full Service Stations that have been closed down, back to the dealers that Getty has forced out of business by high rent increases and harassment.

As soon as most of the Dealer-Leasee and Independents are out of business, the major oil company that is left in a given area can dictate the gas prices. Then we will be paying over $3.00 per gallon for gas, just like Europe and the other countries where there is no competition!

Gentleman I call on you to put the competition back in the Service Station Market Place.

Mr. SKELTON. Thank you so much for being with us today.

Mr. RILEY. I also was one of the dealers that another oil company has come to me and wanted to provide me gas. It was a Phillip's jobber—some of the people you've been talking to before—if I had an opportunity to buy the station that they would like an opportunity to try to sell me gas.

Mr. SKELTON. Thank you. Is that the only one? Just Phillip's?

Mr. RILEY. Yes.

Mr. SKELTON. Thank you.

Mr. LAUER. Our next speaker will be Hershel Dunlap. Hershel?

TESTIMONY OF HERSHEL DUNLAP, CAVE SPRING SKELLY

Mr. DUNLAP. Good morning, Mr. Chairman. My name is Hershel Dunlap. I operate a station in St. Charles, MO. It's a Cave Spring Skelly.

And what you were told before on this—on the Getty and the Skelly, they've—like the last 3 years, like my rent, I was paying $1,100 in 1980 and 1981, and went to $1,300 in 1982; it went to $1,500 in 1983; went to $2,200. So in 3 years they've doubled; it would be 100 percent now.

And they have eliminated a lot of dealers. There's not many of us left. I'm the last dealer left in the St. Louis area. And I think we have 12 left in the Kansas City area.

Mr. SKELTON. Do you agree with what the other witnesses have said regarding the increase in the product to the consumer?

Mr. DUNLAP. Well, there's no doubt it will be. It has to be that way because if you have no competition you're going to buy up one, say, jobber, which may be Standard, or Phillip's, whatever it is. You're at their mercy. You'll pay the price.

Mr. SKELTON. What they ask?

Mr. DUNLAP. Yes, sir.

Mr. SKELTON. Any questions from counsel?

Mr. DUNLAP. Will that be all?

Mr. SKELTON. Thank you so very much.

Mr. DUNLAP. Thank you.

Mr. SKELTON. Mr. Lauer, counsel has a question for you.

Mr. ORBAN. Is there legislation currently under consideration in Congress that could correct this situation which you were mentioning in regard to the dealers who are being forced out?

Mr. LAUER. In 1978 the Congress seemed fit to pass the Petroleum Marketing Practices Act, and we had to make a number of concessions in that act to get the Congress to go along with passage.

Now, 6 years later the courts have tested that law in just many, many cases, and summarized what we call the loopholes of the PMPA bill; which would be House bill 5023. That's the amendments to the PMPA law, Petroleum Marketing Practices Act, and——

Mr. SKELTON. For the record, would you explain your position on H.R. 5023.

Mr. LAUER. Well, the situation is, as you've heard the testimony here from these first two witnesses that we have, and I think you heard a lot of it in Washington as well, one of the big areas of the dealers being out of business is the business of what they call economic rent. And there's nothing economical about it at all. We've seen rents double and triple. We have guys that have gone from $1,000 to $5,000. I can present evidence in just that same short period of 4 years. Going back to 1978 it's even more critical.

The PMPA doesn't cover the position if they're operating without a trademark. In this situation I think there's serious question as to the fact that the dealer who is there now, and all of a sudden the FTC is just going to trade off his business as part of the consent order. He has no protection under PMPA to even have first refusal to buy that property, or anything.

I think in this merger, this hearing here, those are probably two key issues in 5023 that had we been able to pass that before we wouldn't be facing the problem now. Either Congress has to do something retroactive to include this Texaco-Getty merger through the PMPA management's end, or getting the FTC to issue the consent order to protect those guys.

I think on a bare minimum we must have protection under PMPA for these men to have the right to at least purchase their property, and then they only face the horrendous problems that everybody else has talked about, of competition among the suppliers.

Mr. SKELTON. Thank you.

Do you have another witness?

Mr. LAUER. Yes, I'd like to call Doyne Blount from Kansas City, MO.

TESTIMONY OF DOYNE BLOUNT, DOYNE'S CORNER

Mr. BLOUNT. Mr. Chairman, we appreciate the opportunity and the interest this morning. My name is Doyne Blount. I operate a Getty dealer station, 900 E. 63d Street, Kansas City, MO.

I worked for Skelly Oil Co. for 10 years. I leased a Skelly station for 15½ years, and succeeded in buying it about a year and a half ago, and own my own property. So I'm a dealer.

We'd like to thank you for this opportunity to discuss our concerns about a crisis in our business world. The crisis is the age of big oil merging with big oil to become bigger oil.

All of us here from Kansas City have already been through one of these mergers a little over 4 years ago. We watched greedy Getty gobble up a perfectly good jobber dealer oriented oil company, Skelly Oil Co.

We saw rents, in my case, go from $265 a month, to $600, and then they skipped to $900. They were going to stop at $900 one year, and they went on to $1,100. Then it went to $1,300. And if I hadn't of bought it last year it would have gone to $1,600. So we've all had that rent problem.

They've discontinued what we call the "keep fill" system, which is keeping your tanks full. We had a deposit of about $800, and they went to $2,400, and then they went to $3,600, and then they just discontinued the thing altogether. And we started buying gasoline by the load COD.

By this time they had strapped us for cash enough, they required certified checks for gasoline. This ties up about another $15,000 to $20,000 for a dealer unit.

They discontinued the credit card that our truck stop friends are so proud of. Skelly pioneered this credit card, and it was a very important part of our business. They replaced it with the MasterCard. My accountants tell me this costs me 20 percent of my business.

They discontinued using credit cards to purchase gasoline. This doesn't sound too serious, but now we have to send our credit cards to Tulsa; wait on their good time to send us a check. This ties up another $2,000 to $3,000 or $4,000.

They discontinued their TBA program, another pioneered program. They discontinued selling oil to dealers because they said they couldn't make any money selling motor oil.

They discontinued a uniform subsidy, and are selling gasoline as low as jobber cost just down the street from all of us.

Now we have to start all over again, and most of us didn't survive the first time. Although these kinds of changes are painful, let's talk about the real problem. Let's discuss competition.

About a month ago I heard about a mechanic down the street from me that wasn't happy. He had worked at the DX station about 25 years before it closed, and he'd transferred across the street, but he wasn't happy.

But to make a long story short, after several days, and a lot of discussion, we got together. We put an ad in the Weekly Shopper and ran it for 3 or 4 weeks so everybody would know where he went. This worked. My business increased 30 percent in the backroom, and about 10 percent on the gas island. And, incidentally, all of that was full service gas.

Gentlemen, this is competition at the grassroots level. This is how dealers compete with each other. Better prices and better service.

Now, we've seen this competition, some of these forces at work, when Getty quit selling oil. Instead of $24 to $26 a case, we now

have to pay $20 to $23 a case because several jobbers are trying to sell us oil.

We get delivery twice a week if we need it. Getty used to make us do it on their day every other week, and if you missed your day you were just out for 2 more weeks. That's competition. Good service, or better service, and a better price.

Now, we saw this same competition when Getty went out of the TBA business. Several companies tried to get that business. They came up with a better dating program. We can return old stock. We get better delivery service. They even correct their computer mistakes. They don't make quite as many of them either.

Now, we do have an option on who delivers our gasoline. Getty gets 1.1 cents at my station for freight. They ask for a 3-day notice to get a load of gasoline. With my tank situation a 3-day notice is almost impossible.

We can also get our gasoline through Carl Berry Oil Co., which is a Getty jobber. The same gasoline and the same billing. He charges us 0.97 for transportation, and will do it with a day's notice, and several times when I've really been in an emergency I've gotten it the same day.

Gentlemen, this is the little man competing with the little man. He knows he has to give us service and a decent price or he doesn't survive. They have started to compete now. We are really seeing competition in some areas. These jobbers have started competing for some of the Getty dealers in Kansas City.

I have one jobber who called on me. He's offering me gasoline 2⅞₀ above jobber price. Three and eight-tenths on unleaded. He's offered to pay for half of my uniforms. He's offered a free credit card. And he says he'll paint the station.

Jobber No. 2, offered 1½ cents a gallon above jobber price, and he'll give me 10 days to pay for it. I don't have to go on COD. In my volume, that's about a $3,000 a year free money.

He'll take care of 75 percent of my uniforms, and he'll paint my station. And he has a free credit card.

Gentlemen, we're dealing in a few pennies, or parts of pennies. These two deals are over $5,000 difference in a year, and that's out of my billfold.

Now, this is competition. This is small people dealing with small people, and competing for the business. These people want my business. But before we get on "Cloud 9" there's something I should tell you. They're both Phillip's jobbers. They are the only ones that seem to be actively looking for business. And the word is out that Phillip's is moving back into Kansas City.

I had a Conoco jobber salesman call on me, but his deal is about $15,000 a year off. And he's a nice guy, and I've known him all my life, but I can't do business with that much difference.

So that's the supply situation in Kansas City.

What kind of a deal do you suppose I could make if Mobil, Gulf, Champlin, Texaco, City Service, and DX had not left town? We don't have the competition. In Kansas City it's up to Amoco, Phillip's, and Total.

Amoco leases some stations, but don't actively look for dealers like me. Total is completely company operated. Phillip's is the only choice I have, and this would put three Phillip's stations on 63d

Street between Main and Paseo, which is about a 10 or 11 block area. I will be right in the middle of two other Phillip's stations.

The rest of these aren't in the market anymore, or they're akin to Mary Hudson, and that's another story within itself.

The point of this entire discussion is when there are options there is competition. When there is competition the price goes down, and service goes up.

Now, there are those who will tell you that people don't want service anymore. Gentlemen, let me tell you, this is big oil's myth. When given the choice and the right price they'll take service every time.

They don't want to go to the trouble, or the expense, to give service. It's a whole lot easier to stand behind a counter and take money than it is to supervise a four- to six-man crew that has some real talent, and real brains, and takes care of people, and makes people happy. It's a lot simpler just to take the money than it is to supervise that kind of crew.

In my station we still run 40 to 50 percent full service. Being down the street from a company operated station that sells at your cost, believe me, this is not easy.

Last November I saw a car on my driveway from Washington, DC. I thought—I'd heard all these good things about Maryland, so I thought I'd ask the fellow a few questions. So I strolled out on the driveway and I asked this gentleman, I said, "Do you know anything about the gasoline situation in Maryland?" Of course, coming right out of the clear blue sky he was a little astounded. And he said "Why, has something happened since I left home?" And I said, "No, not really, but what do you think about it?" He says, "All I know about it is that everybody goes to Maryland to buy gas." I said, "How come?" He said, "Because it's cheaper."

He didn't know why. He didn't know anything about the law that keeps oil companies from operating service stations in Maryland. He didn't know anything about the law that makes distributors sell dealers gasoline for less money if they have a station in competition with them. He didn't know about this.

All he knew was "it's cheaper, so we go to Maryland."

It's another example, gentlemen, when there is competition the price goes down and the service goes up. It's the same story that we've been telling for years. We want to thank you because you're the first group that we've talked to that we feel like is really listening, and would ask you if you will consider some long-term remedies to some of our problems.

One is, please study the Maryland divorcement law, and their margin laws. Consider supporting legislation on the national level that's similar to these laws.

Then help stop big oil merging with big oil so they can become bigger oil.

We've just split up AT&T, and I, for one, don't think the gasoline business can stand another one of these. I don't think our consumers can afford it.

Thank you, gentlemen.

[Mr. Blount's prepared statement follows:]

PREPARED STATEMENT OF DOYNE BLOUNT, DOYNE'S CORNER

Thank you for this opportunity to discuss our concerns about a crisis in our business world, the age of "Big Oil" merging with "Big Oil" to become "Bigger Oil."

All of us here from Kansas City have been through the merger thing once when "Greedy Getty" gobbled up a perfectly good dealer and jobber minded Skelly Oil Co. They proceeded to dismantle this company and we saw:

1. Rent went from $265.00 to $1300.00 in four years
2. Keepfill gasoline deposit went from $800. to $3600. Then later discontinued and required dealers to buy full loads C.O.D. This ties up additional $1500.
3. Discontinued credit card (Skelly had pioneered the credit card) replaced it with Master Card.
4. Discontinued use of credit cards to purchase gasoline. Ties up another $2000. to $3000.
5. Discontinued T.B.A. program (Another pioneer program).
6. Discontinued selling oil to dealers.
7. Discontinued uniform subsidy and advertising subsidy.
8. Discontinued maintenance department.
9. Company stations selling gas at jobber cost.

Now we have to start all over again and most of us didn't survive this last time. Although these kind of changes are painful let's address the real problem, let's discuss competition.

About a month ago I heard about a mechanic down the street that wasn't happy. He had worked at the D–X station for 25 years before it closed and then he moved across the street. To make a long story short we talked for several days and finally got together, we put an ad in the local shopper for 4 weeks to be sure we could draw all the business we could, it was successful and our business has picked up 30%. This is competition at the grass roots level.

We have seen other competitive forces when Getty quit selling oil. Instead of $24 to $26. per case we now pay $20 to $23. per case. We get delivery twice per week if necessary instead of the one day every two weeks with Getty. In fact the jobber I buy my oil from offered me freon last week 10¢ cheaper than normal because of my dollar volume with his company. This never happened with Getty. This is distributor competition working.

We have seen competitive forces at work when Getty went out of the T.B.A. business. Several companies try for the business with better dating programs, return of old stock, better delivery, and correct mistakes (don't make as many either). We have one option on gasoline delivery. The difference is Getty charges 1.1¢ per gal and wants 3 days notice, Carl Berry, a Getty jobber charges .97 and asks one day notice and sometimes will bring it the same day. That's Competition working again, the little guy doing a better job probably because he wants the business and knows he has to have it to survive.

We have seen the most aggressive example of competition since the merger was announced. Jobbers have started to compete for the Getty dealer business. Two jobbers are really working hard to get my business.

1. 2.8¢ above jobber price for gas; 3.8¢ above jobber price for gas; 50% uniform allowance; free credit card; paint station.
2. 1.5¢ above jobber price all grades gas; 10 days to pay; 75% uniform allowance; paint station; free credit card.

This deal is about $5,000 per year better than No. 1.

These people want my business and this is competition at it's best—But don't think we're on cloud 9 yet. Both of these are Phillips jobbers competing with each other. What kind of a deal do you think we could make if Mobil, Gulf, Champlin, Texaco, Cities Service, and D–X were still in town competing for the business. In Kansas City it is up to Amoco, Phillips were still in town competing for the business. In Kansas City it is up to Amoco, Phillips and Total. The rest aren't even in the market anymore or are kin of Mary Hudson. The point of this entire discussion is when there are option's there is competition, when there is competition the price goes down and the service gets better. There are those who will tell you the market has changed, people don't want service anymore. This is (Big Oil Myth) because they don't want the problems or expense of giving service, it is much easier to stand behind a counter and take money than it is to supervise 4 to 6 men per shift that has real talent and skill to fix a car or make a customer happy. Given a choice and a reasonable price people still want full service. At my station it still is 40% to 50% of my business. Of course it is hard to maintain a good full service operation down the street from a company station selling at your cost.

Last November I saw a car with Washington D.C. license plate out on my drive. I decided to find out something about the gasoline situation in Maryland. I ask the customer and he said all he knew about it was everyone went there to buy gas because it was cheaper. He knew nothing about the law they have that oil companies can't operate service stations and the one the distributors competing with dealers must sell dealers gas at 7¢ below their posted retail. "Big Oil" would have you believe these laws would raise prices but when they have to compete for dealers business and dealers compete with each other the price goes down and the service goes up. The same story we have been telling for years.

You are the first group that acts interested in our problem and I thank you for your patience and ask your support in a sound long range remedy for this situation.

Please:

1. Study the Maryland divorcement law and margin laws.
2. Consider passing a national divorcement law.
3. Help stop "Big Oil" from merging with "Big Oil" to become "Bigger Oil". We just split AT&T, I'm not sure we can afford this with gasoline.

Help us restore competition in the oil business.

Mr. SKELTON. Thank you very much.

Mr. Lauer.

Mr. LAUER. Jim Edwards, Texaco dealer from St. Louis.

Mr. SKELTON. You have about 6 minutes, I believe. I'm sorry, you have 8 minutes.

TESTIMONY OF JIM EDWARDS, BUTLER HILL TEXACO

Mr. EDWARDS. Mr. Chairman, my name is Jim Edwards, and I operate a Texaco station at Butler Hill Road and Interstate 55 in South St. Louis County, and I do have a prepared statement I'd like to leave with you.

Mr. SKELTON. All right. For the record we will admit it, without objection.

Mr. EDWARDS. On February 15 of this year I appeared before the Commerce Committee of the Missouri House of Representatives. Attached is a copy of the statement I made. Excuse me.

If you will take a moment to look at the figures on the first page you'll see that Texaco is trying to put its existing dealers out of business by retailing gasoline at prices below dealer tank wagon.

Because of this, I believe you should require that Texaco offer to sell to the existing dealers any units it plans to sell, thus preventing thousands of dealers being deprived of continuing in a business that they have worked years to build.

If all the small businessmen operating service stations were forced out of business the services they perform would double in price. You wouldn't even be able to get a fan belt installed on a weekend. Just imagine yourself 500 miles from home and you blow out a tire, or you lose a water pump, or a fan belt falls off. With garages closing on weekends you'd have to find a motel for 3 nights before you can even talk to a garage man. I don't think you really want this to happen; however, if you don't stop this from happening right here and now with Texaco and Getty, you could very well be faced with this problem in just a couple of years.

Just look at how many mergers are being considered now. Virtually every oil company is trying to buy out or merge with somebody in this industry.

That's really all I have to say at this time on my statement, but I would like to say something that's not in this prepared statement.

You seem to be very interested in what the competition will mean to the consumer. I'd like to tell you that in 1982 Phillip's 66 and Amoco closed their stations next to mine for a year for remodeling. During that year my profits doubled because of competition. My profits were just higher because I didn't have to lower it because no one was fighting with me.

What's going to happen to the Skelly dealers, I can tell you what the Texaco reps have been informed indirectly. Texaco bought the crude reserves. They do not want those stations. And you're not going to get the crude. That's as simple as that. So they're going to have to come up with crude from somewhere. They're not going to get it from Texaco.

Thank you.

[Mr. Edwards' prepared statement follows:]

PREPARED STATEMENT OF JIM EDWARDS, BUTLER HILL TEXACO

My name is Jim Edwards, I operate a Texaco Station at Butler Hill Road and Interstate 55 in South St. Louis County. I would like to speak to you about the pending Texaco/Getty buyout.

On February 15 of this year, I appeared before the Commerce Committee of the Missouri House of Representatives. Attached is a copy of the statement I made. If you will take just a moment to look at the figures on the first page, you will see that Texaco is trying to put its existing dealers out of business by retailing gasoline at prices below Dealer Tank Wagon.

Because of this, I believe you should require that Texaco offer to sell to the existing dealers, any unit it plans to sell thus preventing thousands of dealers being deprived of continuing in a business that they have worked years to build.

If all the small businessmen operating service stations were forced out of business, the services they perform would double in price. You wouldn't even be able to get a fan belt installed on a weekend. Just imagine yourself 500 miles from home on a Friday night, you loose a fan belt, a water pump, or even blow out a tire. With garages closing on weekends, you would have to find a motel for 3 nights before you could even TALK to a garage. I don't think you really want this to happen. However, if you don't stop this from happening right here and now with Texaco and Getty, you could very well be faced with this problem in just a couple of years.

Just look at how many mergers are being considered now. Virtually every Oil Company is looking to buy out or merge with someone.

Thank-you, for listening to me today and I hope you heed our warning. I would be happy to answer any questions you might have.

TESTIMONY OF JIM EDWARDS BEFORE THE COMMERCE COMMITTEE, HOUSE OF REPRESENTATIVES ON WEDNESDAY, FEBRUARY 15, 1984, SPEAKING IN FAVOR OF HOUSE BILL NO. 1467

Mr. Chairman, Members of the Committee: My name is Jim Edwards. I operate a Texaco station at Butler Hill Road and I-55 in South St. Louis County. I would like to speak in favor of House Bill No. 1467. We need this bill to maintain the neighborhood station where you can still get service even during the evening hours.

Texaco is forcing us out of business by selling gasoline at prices far below that which would allow any profit. They charge me as of today 1.044¢ per gallon for regular leaded gasoline, yet they retail it at their contract station at Lindbergh and Union Road for 1.009¢ per gallon and take credit cards free. There are some twenty company operated stations in our area. I have attached a copy of my last invoice with a photo to illustrate. Texaco charges me 3% for all credit cards I handle. If the facts were known, I believe you would agree that Texaco is charging me an artificially high tank wagon price.

So, let the facts be known. If this contract station which was pumping 50,000 gallons per month as a dealer operated station were to pump 150,000 gallons at their lower price, using my tank wagon and rebate, they would profit from gasoline, $7,155.00.

Contractor gets $6.60 per hour, 24 hours	$5,000
Electric	600

Rent (They say they charge themselves rent). This was dealers rent before becoming contractor station	1,500
Other utilities (water, sewer)	60
Heating (based on annual cost)	100
Credit card costs	2,000
Total	$9,260

This means they loose some $2,000 per month. The loss is even greater because the actual gallons pumped won't average more than 75,000 per month. This does not consider any local taxes the station would be required to pay, nor does it allow for the time and expenses of a sales rep to run price surveys every other day.

Gentlemen, as you can see, they are either loosing money hand over fist at these locations, or we are being charged much more than we should be. I believe their plan is to run us out of business so they can control the market and without competition, the consumer will be paying much higher prices in the future.

In 1972 in the St. Louis District, there were some 200 Texaco service station. Today as near as we can figure, there are some *twenty* of us left to render services other than gasoline to the motoring public. Other oil companies are showing similar statistics.

I appreciate the opportunity to speak in favor of H.R. 1467. I would welcome any questions you might have.

LOADING ORDER — TRUCK BILL OF LADING AND MANIFEST — INVOICE IF PR

REMITTANCE COPY - REQUIRED WITH PAYMENT - 2

TEXACO
PETROLEUM PROD

THANK YOU FOR BUYING TEXACO
WE ARE WORKING TO KEEP YOUR TRUST

	ROUTING	WGT OR QTY/PRICE FOR	FREIGHT	FRT AMOUNT	ORDER DATE	
970					02 14 84	048079
33-141	ST LOUIS MO					
33-141-025375 L-0035						

CHARGE TO
JAMES H EDWARDS & JANET D
EDWARDS
4205 BUTLER HILL RD
ST LOUIS MO 63129

PLEASE ADDRESS REMITTANCE AND CORRESPONDENCE TO
TEXACO Inc.
P O BOX 18601M
ST LOUIS MO
63195

PLEASE IDENTIFY REMITTANCE BY INV DATE AND NUMBER AS SHOWN ABO

BILL SPACE NO.	CLASS OR BILL UNIT	LICENSE NO.	TYPE OF LOAD
	D5-19028	0018	14-10

SPECIAL TRUCK MARKINGS, LABELS OR PLACARDS OFFERED/APPLIED AS REQUIRED BY DEPARTMENT OF TRANSPORTATION — CHECK THIS COLUMN IF NO LABEL REQ ON HAZARDOUS MATERIAL

NO PKGS	PKG KIND	TRK TNK	GROSS QUANTITY (1)	ADJ QTY	NET QUANTITY	TAXES FEDERAL	TAXES STATE	*PRICE EXCL TAX	AMOUNT
GASOLINE/FLAMMABLE LIQUID/UN1203									
XACO PREMIUM UNLEADED GASOLINE/ETHANOL						04	07	1.144	1,258.4
378	55.6		1100						
GOLINE/FLAMMABLE LIQUID/UN1203									
XACO REGULAR GASOLINE						09	07	1.044	2,610.0
342	65.5		2500						
GOLINE/FLAMMABLE LIQUID/UN1203									
XACO UNLEADED GASOLINE						09	07	1.084	5,746.2
365	61.0		5301						
GOLINE PRICE ALLOWANCE								-.05	-2.8
3801			56						
								INVOICE TOTAL	$9,611.8

RMS : COD

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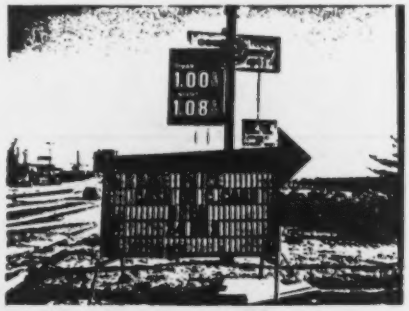

E MINIMUM (R+M)/
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SALES WITH FUEL TAXES NOT BILLED SEPAR
USED IN THE PRICE SHOWN.

INSERT FOLLOWING WHE
OR STATE LAWS OR REGULATIONS

PAYMENT	STATE PERMIT OR LICENSE	VEHICLE LICENSE NO	STATE WITH FUEL TAX RATE

I (we) certify that the above-named materials are properly classified, described, packaged, marked, and labeled, and are in proper condition for transportation, according to the applicable regulations of the Department of Transportation.

This is not a shipment in lieu of stamp, not a part of Bill of Lading approved by the Interstate Commerce Commission.

The undersigned represents that in the production and manufacture of the goods and/or services covered by this shipment, it has fully complied with all the provisions of THE LABOR STANDARDS ACT OF 1938, as amended.

FROM TEXACO INC BY _____ DATE 2-18-84

PRODUCT - LINE				
GRAVITY				
10% AT °F				
50% AT °F				
90% AT °F				
END POINT AT °F				
IBP				
COLOR				
KEROSENE OR BURNING OIL FLASH - TAG CLOSED CUP				

SHIPPER _____

TRUCK NO. _____

If this shipment moves in other than Shipper's vehicle, it shall be governed by (a) the contract between shipper and carrier, if carrier is a contract carrier or (b) the terms of the applicable uniform bill of lading form described in the current National Motor Freight Classification, if carrier is a common carrier, provided that if this is interstate shipment by common carrier in a state where bills of lading have been legally prescribed this shipment shall be governed by the terms of applicable bills of lading

RECEIVED PAYMENT - SEE TOTAL $ 9611.88
OTHER $ 1776.18
CHECK # 7835.70
CASH $

TEXACO Inc.
BY _____

GOODS RECEIVED June 3/4/84

TEXACO, INC.

Mr. SKELTON. Thank you, Mr. Edwards.

Mr. Lauer.

Mr. LAUER. Mr. Chairman, I think we have one—if time permits, another statement on 5023, basically is one of the remedies. But lest we run out of our time in trying to keep on schedule I think that I'd like to just take a minute or two first to see if we could summarize some of the——

Mr. SKELTON. You say you have one more witness?

Mr. LAUER. Yes. Should I get him out of the way first?

Mr. SKELTON. Why don't you do that.

Mr. LAUER. Take 2 minutes?

Mr. SKELTON. Yes.

Mr. LAUER. OK. Then I'll introduce Buzz Gibbens. Buzz Gibbens, could you make your statement, please.

TESTIMONY OF PHILIP W. "BUZZ" GIBBENS, GIBBENS SKELLY-GETTY

Mr. GIBBENS. Thank you. I'm Buzz Gibbens, or P.W. Gibbens, Lenexa, KS. I have a Skelly-Getty service station, and I've operated for 15 years, and I had another station 3½ years before that.

And I have a prepared statement here I'd like to leave with you on record.

Mr. SKELTON. Without objection.

Mr. GIBBENS. And I'll just highlight this here real quick.

I started out about $700 4 years ago on rent, and it went up to $1,000 then $1,327 each month. And then it went to $2,750 a month, and that's when I refused to pay, and I couldn't, so I'm in litigation now. And I've been told if I continue paying that—if I pay that that year, my rent would have went to $3,600 for this year, which I'm not—I'm still paying $1,327.

And there is approximately 3½ years ago there was 128 leasee service stations in the Kansas City district. Today there is approximately 10 left. And they say that they're not putting them out, but they're still not giving any leases. If the person can afford to pay the rent he can stay there, but they're seeing to that that the people can't afford that, so they're kind of eliminating them through the rent structure.

And this is my only livelihood, and we need your support in Washington to try to help these bills, and to protect this small business. And I do appreciate the time for this.

Mr. SKELTON. Thank you for driving in from Kansas. We appreciate your coming over.

Mr. GIBBENS. Thank you, sir.

[Mr. Gibbens' prepared statement follows:]

PREPARED STATEMENT OF PHILIP W. "BUZZ" GIBBENS, GIBBENS SKELLY-GETTY

My name is Philip W. Gibbens, and I have operated a Skelly-Getty Full Service Station at 95th and I-35, Lenexa, Kansas, for the past eighteen years.

I am most concerned about the Texaco-Getty merger and the effect it will have on the gasoline business in the Kansas City area. It is a known fact that all major oil companies in this country are eliminating the full service stations in favor of discount stations. Those of us who want to remain as full service operators have had to contend with exorbitant rent increases and harassment over the past several years, in an effort to force us out of business. I have, on more than one occasion, made an effort to purchase the station I now lease from Getty, only to be refused. In 1979 my

monthly rent was $700.00, and in 1982 Getty demanded a rent of $2,750.00 per month, at which time I refused to sign a new lease and filed suit against Getty which is still in litigation. Approximately four years ago there were 128 full service stations in the Kansas City district. Today there are only approximately ten.

As for the price of gasoline, Getty has been underselling gasoline in their discount stations two to five cents under my cost. Because of the mark-up of my gasoline, in order to pay my overhead costs, I cannot compete.

We dealers have been trying for some time to make our voice heard in an effort to make it known what was happening. Surely by now, it must be obvious to those not even in the business what is being done by the big oil companies. For most dealers and independents, their stations are and/or have been their livelihood, their means of support for themselves and their families. Most are not in positions to start over or start something new. I ask you gentlemen, how is it right that the oil companies have the right to control so many and so much? What has happened to the basic concepts this country was founded on when "big business" is allowed to set them aside and ignore them?

It is now time that another form of "big business" come to the aid and assistance of the "little guy", and that is the "big business" of our elected officials. We are here in an effort to seek your help in fighting back, in other words, to right a wrong. To give help where it is needed most, to the small businessman. Help us to maintain our independence, self-respect and dignity, but just as important, our livelihoods, our means of support for ourselves and our families. We don't wish to become burdens to our country, but assets. Help us to prevent the take-over and control of a major business in this country and keep it in the hands of the people.

Mr. SKELTON. Thank you.

Mr. LAUER. For many minutes now?

Mr. SKELTON. You just go ahead until we cut you off.

Mr. LAUER. OK. I think the whole idea here is——

Mr. SKELTON. When we get tired we'll go home.

Mr. LAUER. Have lunch at least.

Mr. SKELTON. We would like to hear your thoughts. You mentioned to me earlier about H.R. 5023. I'd like, for the record, for you to explain or summarize them for me.

Mr. LAUER. Well, we have a position paper. I don't know that I can take the whole time to give H.R. 5023 as the one specific answer. I think that it's—we talked a little bit earlier. The idea is that where competition exists is at the retail level among the dealers, and yet in such a big business when you have the David and Goliath situation they have to have some protection, and that's supposed to be under the antitrust laws of this country.

I think our big concern is the weakening of those in these mergers that are proposed where they seem to be ignoring——

Mr. SKELTON. They're doing indirectly what they cannot do directly?

Mr. LAUER. Right. And H.R. 5023, and other various legislation which we hope that you would consider endorsing and cosponsoring, that piece of legislation, along with your friends Tom Tauke, and Berkely Bedell, who——

Mr. SKELTON. And Mike Synar, is that not correct? Congressman Synar from Oklahoma?

Mr. LAUER. Synar from Oklahoma.

We have one other Missouri Representative that's come out directly for that. We hope to get the rest of our people involved. That's Bill Clay did come out in favor of coastline shipping. Jim Slatterhill from Kansas is also cosponsoring the bill to this point.

And merely the need there is simply to get the loopholes in the PMPA together to prevent, as I've stated earlier, the situation where there may be other mergers that we don't have any protec-

tion under PMPA as far as rights to purchase the property. We would have to have the—I guess a better voice. Just a little bit more protection under the law to deal with the big guys that are trying to suppress the situation.

That in a nutshell would probably take care of H.R. 5023, in my opinion. It's just the strengthening of what the Congress voted for almost unanimous in 1978.

I'd just like to make another couple of key points here I think that the FTC is completely overlooking

One is to say "why does Texaco want this merger at all?" And I believe that it's strictly for the crude oil because everything that they're talking about seems to indicate nothing else is important but getting their hands on the crude oil reserve.

There's no anticompetitive situation. There's no taking care of the antitrust law situations, et cetera. And what the American public has got to understand, I think the Congress is one of our representatives here, testified earlier, is what is the plan. And the plan has to be, Mr. Chairman, that the oil companies are sincere about their plan that was unanimous some 15 years ago, and that is vertical integration to control from wellhead to pump. I think we constantly seem to ignore that.

I talked to dealers who say, you know, we don't need divorcement laws. The word divorcement sounds like you're getting rid of your wife, and we've been in a marriage with this oil company for 20 years, and we don't need that. We can just have handshakes; everything will be fine.

But what we're seeing is this guy moves his equipment to his own garage, and he's still saying "well, they wouldn't do that to me." But they've done it to 40 percent of them since 1980. And they've done a lot of what the loopholes of H.R. 5023—the biggest one being probably the higher rent situation, this economic rent.

They want to cut up the pieces of pie. And the oil companies, "The Seven Sisters", is an interesting book to read sometime when you have an extra leisure moment. Is they want to take this country and divide it up into pieces. And if you can see a situation just here in the Midwest where we're from, not to even talk about the Northeast, and power tests, and all those situations, what you've got from just a little bit west of St. Louis all the way to I don't know how near Denver, CO, and even beyond, one major supplier, Amoco, is basically it.

If that doesn't go a long way in saying Texaco has got certain pieces of the country, and now Amoco has got the Midwest, with the others, including Phillip's who operate strictly through jobbers since the consent order in 1975——

Mr. SKELTON. Just 1 minute remains. Please proceed.

Mr. LAUER. See, the thing about Phillip's is that I'm pleased that there is Phillip's jobbers, and there's a Phillip's situation to help maybe take up a little bit of slack in the Kansas City area. The real question is where do they get all of their supplies as far as this El Dorado, KS, situation. And yet, in spite of Phillip's seeking some business there, and some jobbers being aggressive, and that's good, we're still stuck with only one of the seven sisters from that terrible large geographic area. And I say that that is no competition, and we'll go from where we was with gasoline at 50 to 60 cents a

gallon to have a shortage, many people believe self-imposed, to where we went to $1 a gallon. And what this situation is all part of the plan, is to cut that country up, and to take the seven or eight major oil companies, whatever are going to be left—maybe only five if they keep doing what they're doing, or less. And then the Congress' next challenge will be when the public says, "My Lord, we're at $3 or $4 a gallon for gasoline. All the small businesses are out."

You're going to be faced, Mr. Chairman, with the idea of saying "we've got to have another 1911, and best up John D. Rockefeller again." Or we're going to have to nationalize the oil company, neither of which are pleasant situations.

But in the meantime, all small businessmen that you're concerned with have to be gone out of business. Those properties won't be available to restore again to our present situation without great increase in cost. And the result is not good for the consumer because he ultimately loses.

Thank you very much.

Mr. SKELTON. Mr. Lauer, thank you very much to you and your witnesses. And I might say a special thanks to all of the witness that came up here. This is very, very helpful.

As you know, we had a hearing in Washington, and a good number of your compatriots came up and testified for our full subcommittee. Needless to say, it's impossible for many to come to Washington. That's why we held the hearing here. And those not just from Missouri, but from Iowa, and Kansas. And, again, I thank you. I will share your comments and the record that you made with the rest of the subcommittee, and the full Small Business Committee, and, of course, with the FTC as per our previous announcement.

Thank you, again. The meeting is now adjourned.

[Whereupon, at 12:10 p.m., the subcommittee adjourned, to reconvene, subject to call of the Chair.]

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